

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO  
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, - Docket No. 3:06-CR-719  
5 Plaintiff, -  
6 v. - Toledo, Ohio  
7 - June 4, 2008  
8 - Trial  
9 -  
10 MOHAMMAD ZAKI AMAWI, et al., -  
11 Defendants. -  
12 -----

13 VOLUME 60, TRANSCRIPT OF TRIAL  
14 BEFORE THE HONORABLE JAMES G. CARR  
15 UNITED STATES DISTRICT CHIEF JUDGE, AND A JURY

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23 Proceedings recorded by mechanical stenography, transcript  
24 produced by notereading.  
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1 (Reconvened at 8:42 a.m.)

2 (The jury is not present.)

3 MR. TERESINSKI: It's not a big issue. I sent a

-08:-42:-07 4 couple edits to Your Honor last night.

-08:-42:-07 5 THE COURT: I probably picked them up.

-08:-42:-07 6 MR. TERESINSKI: Except for one at the bottom of

-08:-42:-07 7 125, I don't know if it's intentional, where Mr. Sofer suggested

-08:-42:-07 8 inserting after the comma: Or engaged in.

-08:-42:-07 9 THE COURT: That was intentional because it was

-08:-42:-07 10 just repetitious; I have a phobia about --

-08:-42:-07 11 MR. GETZ: I understand. That's why I took out the

-08:-42:-07 12 word "that".

-08:-42:-07 13 MR. SOFER: When I read that -- the reason I asked

-08:-42:-07 14 to do it is when I read it, I read the "or engaged in similar

-08:-42:-07 15 conduct" to do a modification of the clause before it, which was

-08:-42:-07 16 talk about certain things.

-08:-42:-07 17 THE COURT: I'll try to read it.

-08:-42:-07 18 MR. SOFER: If we get a question from the jury, you

-08:-42:-07 19 can emphasize it during the reading.

-08:-42:-07 20 THE COURT: I want to say, Counsel, how deeply I

-08:-42:-07 21 appreciate the effort gone into the jury instructions. There

-08:-42:-07 22 are few phases of any trial that are more important than the

-08:-42:-07 23 composition of jury instructions. And, quite candidly, all too

-08:-42:-07 24 often, for various reasons, counsel stakeout extreme positions

-08:-42:-07 25 on either side, and the result ultimately becomes what I have in

-08:-42:-07 **1** front of me because I generally tend to follow the pattern.

-08:-42:-07 **2** Sometimes syntactically tidied up a bit. But to work so

-08:-42:-07 **3** diligently together works to everybody's benefit. I want to

-08:-42:-07 **4** express that. Both sides served their clients with the highest

-08:-42:-07 **5** degree of professionalism. That has not been uncommon in this

-08:-42:-07 **6** case.

-08:-42:-07 **7** MR. SOFER: We want to make a brief report about

-08:-42:-07 **8** exhibits before the jury comes in. Mr. Herdman's going to do

-08:-42:-07 **9** that if that's acceptable to Your Honor.

-08:-42:-07 **10** THE COURT: It is something we could do during a

-08:-42:-07 **11** break in terms of timing.

-08:-42:-07 **12** MR. SOFER: We can do it between Your Honor's

-08:-42:-07 **13** charge and the beginning of summation.

-08:-42:-07 **14** THE COURT: Okay. Why don't we do that.

00:00:03 **15** (Jury enters the courtroom.)

00:00:03 **16** THE COURT: Good morning and welcome back. As

-08:-42:-07 **17** you are aware, we will begin with the reading to of the final

-08:-42:-07 **18** jury instructions. You don't have to follow along, it's

-08:-42:-07 **19** entirely up to you. Written copies were provided to you. I

-08:-42:-07 **20** would ask that you not read ahead. Following that the

00:03:01 **21** government -- I assume we'll take a break. It's going to take

00:03:06 **22** about an hour-and-a-half or so.

00:03:08 **23** Following that, the government will present its

00:03:11 **24** closing argument which I anticipate will last the balance of the

-08:-42:-07 **25** day. And it's basically -- it may necessitate going somewhat

-08:-42:-07 **1** later than we have been accustomed doing in the past. It's  
-08:-42:-07 **2** very hard to predict. But it's very important that we complete  
-08:-42:-07 **3** the government's entire presentation to you in one sitting, as  
-08:-42:-07 **4** it were.

00:03:38 **5** The defendants then will present their closing  
-08:-42:-07 **6** arguments and their best estimate -- again it's very hard to  
-08:-42:-07 **7** predict -- but their best estimate is to be done sometime mid  
00:03:50 **8** afternoon tomorrow. And then the government, because it has  
00:03:53 **9** the burden of proof, presents their rebuttal argument in  
-08:-42:-07 **10** response to the defense argument, and its expectation is that we  
-08:-42:-07 **11** likewise will present and complete that tomorrow if all goes as  
-08:-42:-07 **12** I anticipate.

-08:-42:-07 **13** There's no guarantee, but by sometime afternoon,  
00:04:18 **14** probably late afternoon, the case will be in your hands, and it  
-08:-42:-07 **15** will be entirely up to you how you proceed. You can start  
00:04:27 **16** deliberating. I would suggest that you at least select your  
-08:-42:-07 **17** foreperson, then determine how you want to proceed.

00:04:34 **18** As I indicated to you about Friday, I won't be  
-08:-42:-07 **19** available in person on Friday. However, I will be available  
00:04:46 **20** electronically through video conference, so if you want to  
-08:-42:-07 **21** deliberate on Friday, that's fine. It's up to you. The  
-08:-42:-07 **22** schedule is entirely up to you. But if you have questions or  
-08:-42:-07 **23** matters come up, it may take a little longer than it otherwise  
00:05:01 **24** might to get them reed and so forth.

-08:-42:-07 **25** I would indicate that starting at about 3:30 Friday

00:05:08 **1** afternoon I'll be in a procedure in Cleveland, the investiture  
-08:-42:-07 **2** of a newly appointed United States magistrate judge. If you  
-08:-42:-07 **3** were to deliberate past that hour and you needed to speak with  
-08:-42:-07 **4** me, it may take a bit to get back to you because, obviously, I  
-08:-42:-07 **5** would not want to -- I will interrupt at some point to excuse  
00:05:34 **6** myself but there may be times when I simply will not be able to  
-08:-42:-07 **7** step aside.  
-08:-42:-07 **8** I will now read to you the final jury instructions.  
00:05:55 **9** There's a table of contents which is provided to you for your  
-08:-42:-07 **10** general convenience during your deliberations given the 50 pages  
-08:-42:-07 **11** of instructions themselves.  
00:06:06 **12** Part 1. General principles applicable to criminal  
-08:-42:-07 **13** trials.  
00:06:12 **14** Members of the jury, before I give you my final  
-08:-42:-07 **15** instructions about the law in this case, I want to express my  
-08:-42:-07 **16** thanks to you for your time and energy, as well as patience and  
00:06:25 **17** attention I should add, that you have devoted to this trial.  
-08:-42:-07 **18** Jury service is rarely convenient, but without you, justice  
-08:-42:-07 **19** could not be done in this case, or in any other case.  
00:06:37 **20** Instruction Number 1. Introduction of charge.  
00:06:42 **21** I will now instruct you about the law that you must  
00:06:46 **22** follow in deciding this case. These legal principles are  
00:06:51 **23** common and applicable in all federal criminal trials. Shortly,  
00:06:56 **24** you will hear the closing arguments of counsel concerning what  
-08:-42:-07 **25** they believe the evidence shows in this case. My instructions

00:07:05 **1** will guide you in considering the evidence and will be divided  
00:07:09 **2** into three parts:  
-08:-42:-07 **3** First, general principles applicable to all  
00:07:14 **4** criminal trials;  
00:07:15 **5** Second, instructions about the crimes charged and  
00:07:19 **6** what the government must prove;  
00:07:23 **7** And third, instructions about your deliberations.  
-08:-42:-07 **8** It will take considerable time for me to read these  
00:07:29 **9** instructions to you. You have copies of the instructions to  
00:07:33 **10** read as I read the instructions orally. Do not read ahead, as  
00:07:37 **11** you must listen carefully and pay close attention to everything  
-08:-42:-07 **12** I say. You can write on the instructions if you wish.  
-08:-42:-07 **13** If the instructions as I read vary from the printed  
-08:-42:-07 **14** version, I will make corrections in the version from which I am  
-08:-42:-07 **15** reading. My instructions as read and so corrected, if such  
-08:-42:-07 **16** occurs, are what control. I remind you that if there are any  
00:08:04 **17** inconsistencies between these instructions and those I read at  
-08:-42:-07 **18** the beginning of trial, these are the instructions that control  
-08:-42:-07 **19** your deliberations.  
00:08:13 **20** You will recall that I read instructions to you at  
-08:-42:-07 **21** the outset of trial. To the extent that there may be some  
00:08:21 **22** variation between those instructions and these instructions,  
-08:-42:-07 **23** these instructions control your deliberations.  
00:08:28 **24** Instruction Number 2, jurors' duties.  
00:08:34 **25** You have two main duties as jurors. The first is



00:08:38 **1** for you to determine what the facts are from the evidence that  
-08:-42:-07 **2** you saw and heard during the trial, and from the exhibits that  
-08:-42:-07 **3** will be with you in the jury room. Deciding what the facts are  
-08:-42:-07 **4** is your job, not mine, and nothing that I have said or done  
-08:-42:-07 **5** during this trial was meant to influence your decision about the  
00:09:01 **6** facts in any way.

00:09:02 **7** Your second duty as jurors is to take the law as I  
-08:-42:-07 **8** give it to you now in these final instructions and apply it to  
00:09:12 **9** the facts, and decide if the government has proved the  
00:09:16 **10** defendants guilty beyond a reasonable doubt.

00:09:18 **11** It is my job to instruct you about the law, and you  
-08:-42:-07 **12** are bound by your oath to follow the instructions that I give to  
00:09:27 **13** you. This is so, even if you personally disagree with an  
00:09:31 **14** instruction or doctrine. Your personal beliefs can play no  
00:09:37 **15** role whatsoever in your decision. For example, it would be  
00:09:44 **16** improper for you to consider, in reaching your decision as to  
-08:-42:-07 **17** whether the government met its burden of proof, any personal  
-08:-42:-07 **18** feelings you may have about the individual defendants' culture,  
00:09:56 **19** national origin, race or religion.

00:10:00 **20** The lawyers may discuss the law during their  
00:10:03 **21** arguments. But if what they say differs from what I say, you  
-08:-42:-07 **22** must follow what I say. What I say about the law controls.

00:10:10 **23** All of my instructions are important, and you  
-08:-42:-07 **24** should consider them together as a whole.

00:10:18 **25** Perform these duties fairly. Do not let any bias,

-08:-42:-07 **1** sympathy or prejudice that you may feel toward one side or the  
00:10:27 **2** other influence your decision in any way.

00:10:30 **3** Instruction Number 3, presumption of innocence;

00:10:38 **4** burden of proof; reasonable doubt.

00:10:40 **5** The defendants have pleaded not guilty to the

-08:-42:-07 **6** crimes charged in the indictment. An indictment is not

-08:-42:-07 **7** evidence; it is simply the formal notice to the defendants of

-08:-42:-07 **8** the charges against each of them. The mere fact of an

00:10:56 **9** indictment raises no suspicion of guilt.

-08:-42:-07 **10** The government has the burden to prove the charges

00:11:03 **11** against the defendants beyond a reasonable doubt, and stays --

00:11:08 **12** that burden stays with the government from start to finish.

00:11:17 **13** The defendants have no burden or obligation to prove anything at

-08:-42:-07 **14** all. They are presumed innocent. The defendants started this

-08:-42:-07 **15** trial with a clean slate, with no evidence at all against them,

-08:-42:-07 **16** and the law presumes that they are each innocent. This

00:11:35 **17** presumption of innocence stays with each defendant unless and

00:11:40 **18** until the government presents evidence here in court that

00:11:44 **19** overcomes the presumption, and convinces you beyond a reasonable

00:11:51 **20** doubt that the defendants are guilty.

00:11:53 **21** If the government fails to meet its burden of proof

-08:-42:-07 **22** as to a charge, you must return a verdict of not guilty. If

-08:-42:-07 **23** you only "think" or "feel" the defendants may be guilty of a

-08:-42:-07 **24** charge, the government has not met its burden of proof as to

-08:-42:-07 **25** that charge.

00:12:14 **1** Proof beyond a reasonable doubt means proof which  
-08:-42:-07 **2** is so convincing that you would not hesitate to rely and act on  
00:12:23 **3** it in making the most important decisions in your own lives.  
00:12:29 **4** Proof beyond a reasonable doubt does not mean proof  
-08:-42:-07 **5** to an absolute certainty or all possible doubt. Possible  
00:12:37 **6** doubts or doubts based only on speculation are not reasonable  
00:12:42 **7** doubts. A reasonable doubt is a doubt based on reason and  
00:12:47 **8** common sense. It may arise from the evidence, the lack of  
00:12:52 **9** evidence, or the nature of the evidence. If you find that the  
-08:-42:-07 **10** evidence in this case could reasonably support either of two  
00:13:01 **11** conclusions -- one of guilt, the other of non-guilt as to any  
-08:-42:-07 **12** charge -- you must return a verdict of not guilty as to that  
-08:-42:-07 **13** charge. If on the other hand, you are convinced that the  
00:13:17 **14** government has proved a defendant guilty beyond a reasonable  
00:13:21 **15** doubt as to one, some, or all of the charges, you may return a  
-08:-42:-07 **16** verdict of guilty as to that defendant.  
00:13:31 **17** Instruction number 4, evidence defined.  
00:13:38 **18** You must make your decision based only on the  
-08:-42:-07 **19** evidence that you heard here in court and the exhibits that will  
00:13:45 **20** be with you in the jury room. Do not let anything else  
00:13:49 **21** influence your decision in any way. I'm going reread this and  
00:13:57 **22** add a couple words. You must make your decision based only on  
-08:-42:-07 **23** the evidence that you heard and saw here in court, and the  
00:14:08 **24** exhibits that will be with you in the jury room. Do not let  
-08:-42:-07 **25** anything else influence your decision in any way.

00:14:16 **1** The evidence includes what the witnesses said while  
00:14:19 **2** they were testifying under oath; the exhibits that I allowed  
-08:-42:-07 **3** into evidence; and stipulations that counsel for all sides  
-08:-42:-07 **4** agreed to have admitted in evidence.

00:14:29 **5** Nothing else is evidence. The lawyers'  
-08:-42:-07 **6** statements and arguments are not evidence. Their questions and  
00:14:39 **7** objections are not evidence. My questions to witnesses and my  
-08:-42:-07 **8** legal rulings are not evidence. Anything that I told you to  
-08:-42:-07 **9** disregard during the trial is not evidence.

00:14:51 **10** Some of you may have taken notes during the trial.  
-08:-42:-07 **11** Whether or not you took notes, you should rely upon your own  
-08:-42:-07 **12** memory about the evidence. Notes are only an aid to assist you  
-08:-42:-07 **13** in recalling the evidence. You should not be overly influenced  
-08:-42:-07 **14** by your notes. Notes that any of you may have made are solely  
-08:-42:-07 **15** for the use of the note taker and may not be given any greater  
-08:-42:-07 **16** weight or influence in determining the case than your  
00:15:22 **17** recollections or impressions, and those of other jurors,  
-08:-42:-07 **18** concerning the evidence. Your conclusions about the evidence  
-08:-42:-07 **19** is what matters.

00:15:31 **20** Sometimes I sustained objections to questions by  
00:15:36 **21** the lawyers. Do not speculate about the reasons for my doing  
-08:-42:-07 **22** so or what you might have learned had I not upheld an objection.

00:15:47 **23** Likewise, do not speculate about what a witness who  
-08:-42:-07 **24** was not called to testify might have said, or what else a  
00:15:54 **25** witness who did testify might have said, had he or she been

-08:-42:-07 **1** asked additional questions.

00:16:02 **2** Something that you did not hear or see, or were not

00:16:08 **3** permitted by me to hear or see, is not evidence. You must not

-08:-42:-07 **4** speculate about things that are not in evidence. Make your

00:16:16 **5** decision based only on the evidence, as I have defined it here,

-08:-42:-07 **6** and nothing else.

00:16:23 **7** Instruction number 5, consideration of evidence.

00:16:30 **8** You should use your common sense in weighing the

00:16:33 **9** evidence. Consider it in light of your everyday experience

00:16:37 **10** with people and events, and give it whatever weight you believe

00:16:41 **11** it deserves. If your experience tells you that certain

00:16:45 **12** evidence reasonably leads to a conclusion, you are free to reach

-08:-42:-07 **13** that conclusion.

00:16:54 **14** Instruction number 6, direct and circumstantial

00:16:58 **15** evidence.

00:17:00 **16** Evidence consists generally of two types: "Direct"

-08:-42:-07 **17** evidence and "circumstantial" evidence. Each type of evidence

-08:-42:-07 **18** can be considered by you.

-08:-42:-07 **19** Direct evidence is simply evidence -- like the

-08:-42:-07 **20** testimony of an eyewitness -- which, if you believe it, directly

00:17:20 **21** proves a fact. A witness's statement that "he saw rain" is

-08:-42:-07 **22** direct evidence that it was raining, and you could find that it

00:17:32 **23** was raining if you believed the witness's statement.

00:17:35 **24** Circumstantial evidence is simply a chain of

00:17:38 **25** circumstances that indirectly proves a fact. If somebody

-08:-42:-07 **1** walk -- someone walked into the courtroom wearing a raincoat  
-08:-42:-07 **2** covered with drops of water and carrying a wet umbrella, that  
-08:-42:-07 **3** would be circumstantial evidence from which you could conclude  
-08:-42:-07 **4** that it was raining.

00:17:56 **5** It is for you to decide how much weight to give the  
-08:-42:-07 **6** direct and circumstantial evidence in this case. The law makes  
-08:-42:-07 **7** no distinction between the weight you should or can give to  
-08:-42:-07 **8** either one, nor is one any better evidence than the other.

00:18:16 **9** You are to consider all the evidence, both direct  
00:18:20 **10** and circumstantial, and give it whatever weight you believe it  
00:18:24 **11** deserves.

00:18:27 **12** Instruction Number 7, recordings and transcripts of  
00:18:32 **13** recordings.

00:18:33 **14** During this trial you heard audio and video  
00:18:37 **15** recordings of conversations lawfully recorded by the government  
00:18:41 **16** with the knowledge and consent of one of the parties -- Mr.  
00:18:46 **17** Darren Griffin -- to the conversation. You are not limited to  
-08:-42:-07 **18** the literal words on the recordings any more than you are  
00:18:54 **19** limited to the bald statements of witnesses; you are permitted  
-08:-42:-07 **20** to draw such reasonable inferences from them as you feel are  
00:19:02 **21** justified in the light of experience.

00:19:05 **22** Similarly, although you may only hear some of the  
-08:-42:-07 **23** conversations, but cannot always see the speakers in some of the  
-08:-42:-07 **24** recordings, you may consider the tone and tenor of what they say  
00:19:20 **25** as well as their literal words, as you would consider the

-08:-42:-07 **1** demeanor and manner of any witness.

00:19:27 **2** A. Transcripts of conversations and statements in

-08:-42:-07 **3** English.

00:19:32 **4** The government and defendants have been permitted

00:19:35 **5** to display transcripts of what appears in the recordings, which

-08:-42:-07 **6** have been received as evidence -- what appears in the

00:19:44 **7** recordings, which have been received in evidence as evidence.

-08:-42:-07 **8** Keep in mind that the transcripts were displayed to you as an

-08:-42:-07 **9** aid or guide to assist you in listening to the recordings. The

00:19:55 **10** transcripts are not the evidence, but rather the recordings

00:20:00 **11** themselves are the evidence, with one exception (namely,

-08:-42:-07 **12** translations of recordings from Arabic into English)that I will

00:20:10 **13** describe in a moment.

00:20:11 **14** Actually, I think there's a slight correction

-08:-42:-07 **15** there. Counsel, why don't you come up one second.

00:20:23 **16** (Whereupon the following discussion was had at the

00:22:56 **17** bench outside the hearing of the jury:)

00:22:56 **18** THE COURT: When the line says transcripts are not

-08:-42:-07 **19** the evidence, but rather the recordings themselves, should I say

-08:-42:-07 **20** "rather what you hear on the recordings are the evidence"? I

-08:-42:-07 **21** mean, that's what the evidence is.

-08:-42:-07 **22** MR. TERESINSKI: It's actually the next paragraph

-08:-42:-07 **23** -- it's in the next paragraph where you talk about if there's a

-08:-42:-07 **24** difference.

-08:-42:-07 **25** THE COURT: I think I put it there. I'll set a

-08:-42:-07 **1** frame for it.

-08:-42:-07 **2** MR. TERESINSKI: That's fine.

-08:-42:-07 **3** THE COURT: But rather what you heard on the

-08:-42:-07 **4** recordings.

-08:-42:-07 **5** MR. TERESINSKI: On the recordings are or is the

-08:-42:-07 **6** evidence.

-08:-42:-07 **7** MR. HARTMAN: You might also want to put say or

-08:-42:-07 **8** saw.

-08:-42:-07 **9** THE COURT: Rather what you heard or saw on the

-08:-42:-07 **10** recordings. I'm going to take out the word "themselves". What

-08:-42:-07 **11** you heard or saw is the evidence. But rather what you heard or

-08:-42:-07 **12** saw on the recordings is the evidence. Okay.

-08:-42:-07 **13** MR. SOFER: I would ask that defense counsel say --

-08:-42:-07 **14** you're going to ask for a general objection after the charge?

-08:-42:-07 **15** THE COURT: Is that okay?

-08:-42:-07 **16** MR. HARTMAN: That's fine.

-08:-42:-07 **17** (End of side-bar discussion.)

00:23:03 **18** THE COURT: Ladies and gentlemen, I'm going to

-08:-42:-07 **19** reread this first paragraph. And I'll read very slowly the

00:23:10 **20** phrase that was -- is being inserted. I apologize for the

00:23:15 **21** inconvenience, but what I'm about to read is the charge to you.

-08:-42:-07 **22** I will, as indicated, give you the version of the instructions

-08:-42:-07 **23** as I read them to you, and that will control your deliberations.

00:23:30 **24** A. Transcripts of conversations and statements in

00:23:30 **25** English.



-08:-42:-07 **1** The government and defendants have been permitted  
-08:-42:-07 **2** to display transcripts of what appears in the recordings, which  
00:23:42 **3** have been received as evidence. Transcripts of recordings  
00:23:48 **4** which have been received as evidence. Keep in mind that the  
00:23:51 **5** transcripts were displayed to you as an aid or guide to assist  
-08:-42:-07 **6** you in listening to the recordings. The transcripts are not  
00:24:00 **7** the evidence, but rather -- and that is the insert -- but  
00:24:07 **8** rather, what you heard or saw on the recordings is the evidence.  
-08:-42:-07 **9** What you heard or saw on the recordings is the evidence. With  
-08:-42:-07 **10** one exception: The translation of recordings from Arabic into  
-08:-42:-07 **11** English that I will describe in a moment.

-08:-42:-07 **12** When the recordings were made, I advised you to  
-08:-42:-07 **13** listen very carefully to the recordings themselves. You alone  
-08:-42:-07 **14** should make your own interpretation of what appears on the  
-08:-42:-07 **15** recordings based on what you heard. If you think you heard  
-08:-42:-07 **16** something differently than appeared on the transcript, or notice  
-08:-42:-07 **17** any differences between what you heard on the recordings and  
-08:-42:-07 **18** what you read in the transcripts, then what you heard is  
00:24:59 **19** controlling. If you could not hear or understand certain parts  
00:25:02 **20** of the recordings, you must ignore transcripts as far as those  
00:25:06 **21** parts are concerned.

00:25:11 **22** Transcripts of conversations and statements in  
-08:-42:-07 **23** Arabic.

00:25:15 **24** Another category of evidence that has been put  
-08:-42:-07 **25** forth before you includes recordings of conversations in the

-08:-42:-07 **1** Arabic language which have been received in evidence. You were  
00:25:26 **2** given transcripts of the portions that have been played before  
-08:-42:-07 **3** you containing English translations of Arabic in the recordings.

00:25:38 **4** With respect to the translations of these  
00:25:42 **5** recordings (from Arabic into English), you may consider as  
-08:-42:-07 **6** evidence the English meaning of the Arabic language terms in  
00:25:51 **7** question. You may consider this testimony in the context of  
-08:-42:-07 **8** all the evidence in this case. If there is a dispute as to the  
-08:-42:-07 **9** meaning of these Arabic language terms, it is up to you to  
-08:-42:-07 **10** determine the appropriate meaning of those terms based on the  
00:26:05 **11** entirety of the evidence that has been presented to you.

00:26:09 **12** Instruction number 8, opinion testimony.

00:26:15 **13** Federal Rules of Evidence provide that if  
00:26:18 **14** scientific, technical or other specialized knowledge might  
00:26:23 **15** assist you in understanding evidence, or in determining a fact  
-08:-42:-07 **16** in issue, a witness qualified by knowledge, skill, experience,  
00:26:32 **17** training or education may testify and state an opinion  
00:26:37 **18** concerning such matters.

00:26:39 **19** In this case, I have permitted you to hear the  
00:26:43 **20** testimony of witnesses who were allowed to express opinions as  
-08:-42:-07 **21** to certain facts in issue. Those witnesses included: Ms. Kelly  
00:26:52 **22** Mount and Supervisory Special Agent W. Mark Whitworth (FBI  
00:26:59 **23** explosives laboratory); Mr. Joseph Corrigan (FBI computer  
-08:-42:-07 **24** analysis recovery team); Mr. Robert Antoon, FBI Arabic language  
-08:-42:-07 **25** specialist. Mr. Evan Kohlmann, expert on uses of the internet

00:27:16 **1** in international terrorism cases; and Ms. Mona Shakkour, Arabic  
00:27:21 **2** language specialist.

-08:-42:-07 **3** You may give this opinion testimony whatever  
-08:-42:-07 **4** weight, if any, you find it deserves in light of all the  
-08:-42:-07 **5** evidence in this case. Do you not have to assess the  
00:27:33 **6** opinions -- those opinions. In deciding how much weight to  
-08:-42:-07 **7** give this testimony, you should consider the witness'  
-08:-42:-07 **8** qualifications and how he or she reached his or her conclusions,  
-08:-42:-07 **9** his or her opinions, the witness' reasons for testifying, as  
-08:-42:-07 **10** well as all of the other considerations that ordinarily apply  
00:27:52 **11** when you are deciding whether or not to believe a witness'  
00:27:56 **12** testimony.

-08:-42:-07 **13** You should not accept opinion testimony merely  
-08:-42:-07 **14** because I allowed the witness to testify concerning his or her  
-08:-42:-07 **15** opinion, nor should you substitute it for your own reason,  
00:28:08 **16** judgment, and common sense. As with the testimony of any other  
00:28:12 **17** witness, you the jury may decide to accept all, some, or none of  
-08:-42:-07 **18** the testimony of any opinion witness.

00:28:22 **19** Instruction number 9, stipulations.

00:28:27 **20** During the trial, the lawyers notified you that  
00:28:31 **21** they "stipulated" or "agreed" to certain facts. Stipulations  
-08:-42:-07 **22** that were provided to you included definitions of terms that the  
00:28:42 **23** Court provided and other agreements concerning certain facts and  
00:28:46 **24** documents that the parties agreed would be proven if certain  
00:28:50 **25** witnesses were called to testify. Anything that the attorneys

00:28:54 **1** have agreed to in this manner may be considered by you along  
-08:-42:-07 **2** with all the other evidence in the case. The stipulations  
00:29:02 **3** referenced apply only to the particular facts and circumstances  
-08:-42:-07 **4** of this case. Stipulations voluntarily entered into by the  
00:29:11 **5** parties are binding and constitute evidence that you may  
-08:-42:-07 **6** consider in your deliberations.

00:29:18 **7** Instruction number 10, lawyers objections.

00:29:23 **8** If lawyers for both sides objected to some of the  
-08:-42:-07 **9** things that were said or done during the trial, do not hold that  
-08:-42:-07 **10** against either side. Do not wonder why they objected or what  
-08:-42:-07 **11** you might have learned had I not sustained an objection. The  
-08:-42:-07 **12** lawyers have a duty to object whenever they think that something  
-08:-42:-07 **13** is not permitted by the Rules of Evidence. Those rules are  
00:29:47 **14** designed to make sure that you decide the case only on the  
00:29:51 **15** evidence -- only on evidence that the law permits you to hear or  
-08:-42:-07 **16** see, and that the trial is fair to both sides.

00:30:01 **17** Instruction Number 11, number of witnesses.

00:30:07 **18** Do not make any decisions based only on the number  
-08:-42:-07 **19** of witnesses who testified about a particular fact or  
-08:-42:-07 **20** circumstance. What is more important is how believable the  
-08:-42:-07 **21** witnesses were and how much weight you think their testimony  
00:30:21 **22** deserves.

00:30:25 **23** Instruction number 12, credibility of witnesses.

00:30:31 **24** Another part of your job as jurors is to decide how  
-08:-42:-07 **25** credible or believable each witness was when testifying. This

00:30:40 **1** is your job, not mine. It is up to you to decide if a witness'  
-08:-42:-07 **2** testimony was believable, and how much weight you think it  
00:30:50 **3** deserves. You are free to believe everything that a witness  
-08:-42:-07 **4** said, or only part of it, or none of it at all. But you should  
-08:-42:-07 **5** act reasonably and carefully in making these decisions. Let me  
-08:-42:-07 **6** suggest some things for you to consider in evaluating each  
-08:-42:-07 **7** witness' testimony:  
00:31:11 **8** Ask yourself if the witness was able to clearly see  
00:31:15 **9** or hear the events? Sometimes even an honest witness may not  
-08:-42:-07 **10** have been able to see or hear what was happening and may make a  
-08:-42:-07 **11** mistake.  
00:31:26 **12** Ask yourself how good the witness' memory seemed  
-08:-42:-07 **13** to be. Did the witness seem able to accurately remember what  
00:31:34 **14** happened?  
00:31:35 **15** Ask yourself was there anything else that may have  
00:31:41 **16** interfered with the witness' ability to perceive or remember  
-08:-42:-07 **17** the events.  
00:31:45 **18** Ask yourself how the witness acted while  
00:31:48 **19** testifying. Did the witness appear honest or did the witness  
-08:-42:-07 **20** appear to be lying?  
-08:-42:-07 **21** Ask yourself if the witness had any relationship to  
-08:-42:-07 **22** the government or the defendants, or anything to gain or lose  
-08:-42:-07 **23** from the case that might influence the witness' testimony.  
00:32:04 **24** Ask yourself if the witness had any bias,  
00:32:08 **25** prejudice, or reason for testifying that might cause the witness

-08:-42:-07 **1** to lie or to slant the testimony in favor of one side or the  
00:32:17 **2** other.

00:32:19 **3** Ask yourself if the witness testified  
00:32:23 **4** inconsistently while on the witness stand, or if the witness  
-08:-42:-07 **5** said or did anything (or failed to say or do something) at any  
-08:-42:-07 **6** other time that is inconsistent with what the witness said while  
00:32:38 **7** testifying. If you believe that the witness was inconsistent,  
-08:-42:-07 **8** ask yourself if this makes the witness' testimony any less  
00:32:45 **9** believable. Sometimes it may; other times it may not.

00:32:49 **10** Consider whether the inconsistency was about something  
00:32:54 **11** important, or about some unimportant detail. Ask yourself if  
-08:-42:-07 **12** it seemed like an innocent mistake, or if it seemed deliberate.

00:33:03 **13** Ask yourself how believable the witness' testimony  
00:33:07 **14** was in light of all the other evidence in this case. Was the  
00:33:12 **15** witness' testimony supported or contradicted by other evidence  
00:33:17 **16** that you found believable? If you believe that a witness'  
-08:-42:-07 **17** testimony was contradicted by other evidence, remember that  
00:33:25 **18** people sometimes forget things and that even two honest people  
00:33:29 **19** who witness the same event may not describe it in exactly the  
00:33:34 **20** same way.

00:33:35 **21** These are only some of the things that you may  
00:33:39 **22** consider in deciding how believable each witness was while  
-08:-42:-07 **23** testifying. You may also consider other things that you think  
-08:-42:-07 **24** shed some light on the witness' believability. Use your common  
-08:-42:-07 **25** sense and your everyday experiences in dealing with other people

00:33:57 **1** and then decide what testimony you believe and how much weight  
-08:-42:-07 **2** you think it deserves.

00:34:04 **3** Instruction number 13, testimony of a paid  
-08:-42:-07 **4** cooperating witness.

00:34:21 **5** You have heard the testimony of Mr. Darren Griffin,  
00:34:24 **6** who worked on the government's behalf throughout this case.

00:34:28 **7** Use of a paid cooperating witness is common and permissible.

00:34:34 **8** You should consider the testimony of such a witness with more  
00:34:38 **9** caution than the testimony of other witnesses.

00:34:41 **10** In assessing this testimony, you should consider  
00:34:45 **11** whether, and the extent to which, the witness' testimony may  
00:34:50 **12** have been influenced by any benefits the government gave him.

-08:-42:-07 **13** With regard to Mr. Griffin, you should, in  
-08:-42:-07 **14** assessing his credibility, consider as well all the factors  
-08:-42:-07 **15** outlined in the preceding instruction with regard to assessing  
-08:-42:-07 **16** the credibility of any witness in light of all the evidence in  
00:35:10 **17** the case.

00:35:11 **18** You cannot find a defendant guilty beyond a  
00:35:16 **19** reasonable doubt on the unsupported testimony of such a witness  
00:35:19 **20** standing alone unless you believe the witness's testimony beyond  
00:35:26 **21** a reasonable doubt.

00:35:26 **22** Instruction number 14, right not to testify.

00:35:33 **23** It is not necessary that the defendants testify.

00:35:37 **24** Every defendant has an absolute right not to

-08:-42:-07 **25** testify. Indeed, each defendant has the absolute right not to

-08:-42:-07 **1** present any evidence at all.

00:35:51 **2** The fact that a defendant did not testify or

00:35:56 **3** present evidence cannot be considered by you for any purpose or

00:36:02 **4** in any way whatsoever.

00:36:05 **5** Remember, the government alone has the burden of

-08:-42:-07 **6** proving its charges against each defendant beyond a reasonable

00:36:14 **7** doubt. There is no burden upon the defendants to prove

-08:-42:-07 **8** anything.

00:36:21 **9** Instruction number 15, summaries and other

-08:-42:-07 **10** materials not admitted in evidence.

00:36:30 **11** During the trial, you have seen Counsel use

00:36:33 **12** summaries, charts, or similar materials including some marked as

00:36:38 **13** exhibits, but not offered into evidence, and some that remained

-08:-42:-07 **14** unmarked, and which likewise were not offered into evidence.

-08:-42:-07 **15** Counsel used such summaries, charts, and similar

-08:-42:-07 **16** materials to help their presentation and your understanding of

-08:-42:-07 **17** the evidence.

00:36:54 **18** These items and materials are not themselves

-08:-42:-07 **19** evidence and must not by themselves be considered proof of any

-08:-42:-07 **20** facts.

00:37:02 **21** Ladies and gentlemen, I expect one or more of the

-08:-42:-07 **22** lawyers might offer some sort of charts or summaries or diagrams

-08:-42:-07 **23** or things of that sort during the course of their arguments, and

00:37:13 **24** this instruction applies to that as well. That's simply

-08:-42:-07 **25** offered as an aid to your understanding so that you can



00:37:20 **1** interpret and deliberate on the basis of the other evidence.

-08:-42:-07 **2** Instruction number 16, the Court's rulings and

-08:-42:-07 **3** other actions.

00:37:35 **4** Nothing that I have said or done during the trial

00:37:39 **5** was meant to influence your decision in any way.

00:37:42 **6** Do not interpret my rulings on the lawyers'

00:37:47 **7** objections as any indication of how I think the case should be

00:37:50 **8** decided. My rulings were based on the Rules of Evidence, not

-08:-42:-07 **9** on how I feel about the case.

-08:-42:-07 **10** Likewise, do not speculate on how I think the case

00:38:02 **11** should come out. My views are not evidence.

00:38:06 **12** To the extent that you think I have any view or

-08:-42:-07 **13** opinion, you must disregard those thoughts entirely. It is

00:38:14 **14** your duty -- and yours alone -- to decide the facts and

00:38:19 **15** determine whether the government has met its burden of proving a

-08:-42:-07 **16** defendant guilty as charged in the indictment.

00:38:25 **17** This concludes my instructions about the general

-08:-42:-07 **18** rules that apply in every criminal case.

00:38:32 **19** Part 2, specific instructions about the crimes

-08:-42:-07 **20** charged.

00:38:40 **21** I will next explain what the government must prove

00:38:45 **22** as to each of the charges against each of the defendants.

-08:-42:-07 **23** Before doing so, I emphasize that the defendants

-08:-42:-07 **24** are only on trial for the particular crimes charged in the

00:38:57 **25** indictment. Your job is limited to deciding whether the

00:39:01 **1** government has proven beyond a reasonable doubt that the  
00:39:05 **2** defendants are guilty as charged.

00:39:09 **3** Whether someone else could be prosecuted for the  
00:39:13 **4** alleged crime is not a proper matter for you to consider. The  
00:39:16 **5** possible or actual guilt of others is not a defense to a  
-08:-42:-07 **6** criminal charge. The possible or actual guilt of others cannot  
00:39:24 **7** influence your decision in any way.

00:39:28 **8** Instruction number 17, nature and function of the  
00:39:35 **9** indictment.

-08:-42:-07 **10** An indictment is not evidence; it is not proof of  
-08:-42:-07 **11** anything. It is simply the formal notice to the defendants of  
-08:-42:-07 **12** the government's allegations against them.

00:39:45 **13** The indictment alleges that the defendants  
00:39:49 **14** committed the following crimes:

00:39:51 **15** One: Conspiracy to kill or maim persons in a  
00:39:57 **16** foreign country (all defendants);

00:40:04 **17** Two: Conspiracy to provide material support or  
00:40:07 **18** resources to terrorists (all defendants);

-08:-42:-07 **19** Three: Distribution of information concerning  
00:40:15 **20** explosives or destructive devices with the intent to further a  
-08:-42:-07 **21** federal crime of violence (Defendants Amawi and El-Hindi are  
-08:-42:-07 **22** each charged with two separate violations of this offense)

00:40:27 **23** Instruction number 18, multiple defendants and  
-08:-42:-07 **24** charges.

00:40:33 **25** The defendants Mohammad Amawi, Marwan El-Hindi, and

-08:-42:-07 **1** Wassim Mazloum have each been charged with committing the two  
00:40:43 **2** separate crimes: -- two separate crimes: Conspiracy to kill,  
-08:-42:-07 **3** kidnap, maim, or injure persons in a foreign country; and  
-08:-42:-07 **4** conspiracy to provide material support to terrorists.

00:40:59 **5** Defendants Amawi and El-Hindi have also been  
-08:-42:-07 **6** charged with two counts each of an additional crime that is the  
-08:-42:-07 **7** same: Distribution of information concerning explosives or  
00:41:09 **8** destructive devices with the intent to further a federal crime  
00:41:13 **9** of violence.

00:41:14 **10** I will explain to you in more detail the exact  
00:41:19 **11** elements of each crime but, before I do so, I want to emphasize  
00:41:24 **12** several things.

00:41:25 **13** The fact that the defendants have been "charged"  
-08:-42:-07 **14** with all of the same crimes should not influence your decision  
00:41:34 **15** in any way. The number of criminal offenses (e.g., one, two,  
00:41:41 **16** three, or four) that a defendant has been charged with is not  
00:41:45 **17** evidence of guilt of any one of them, and this should not  
-08:-42:-07 **18** influence your decision. In our system of justice, guilt or  
-08:-42:-07 **19** innocence is personal and individual. It is your duty to  
-08:-42:-07 **20** consider the evidence against each defendant separately and to  
-08:-42:-07 **21** return a separate verdict for each defendant concerning each  
00:42:03 **22** charge.

-08:-42:-07 **23** For each of the separate charges, you must decide  
-08:-42:-07 **24** whether the government has proved each defendant guilty beyond a  
-08:-42:-07 **25** reasonable doubt.

00:42:13 **1** Your decision on one defendant, whether it is  
00:42:18 **2** guilty or not guilty, should not influence your decision on any  
00:42:22 **3** of the other defendants.

00:42:24 **4** I will now explain the charges in this case.

00:42:30 **5** Instruction number 19, criminal conspiracy --  
-08:-42:-07 **6** generally.

00:42:43 **7** The law of conspiracy, as I will read it to you in  
00:42:47 **8** this charge, applies either in whole or in part to the two  
-08:-42:-07 **9** conspiracy charges against all of the defendants. And you will  
00:42:58 **10** see when I tell you in more detail the elements of those  
-08:-42:-07 **11** charges, the conspiracy to kill or maim, and conspiracy to  
00:43:08 **12** provide material support, is a cross-reference back where  
-08:-42:-07 **13** appropriate to this charge.

00:43:20 **14** Instruction number 19, criminal conspiracy,  
00:43:24 **15** generally.

00:43:25 **16** It is a crime for two or more persons to conspire  
00:43:28 **17** or agree to commit a criminal act, even if they never  
00:43:33 **18** automatically achieve their goal.

-08:-42:-07 **19** A criminal conspiracy is a kind of criminal  
00:43:46 **20** partnership. There are specific elements for each conspiracy  
-08:-42:-07 **21** count that each defendant has been charged with, and I will  
00:43:53 **22** explain to you the specific elements that the government must  
00:43:56 **23** prove for each charge beyond a reasonable doubt in a few  
00:43:59 **24** moments.

00:44:00 **25** At the outset, I will explain some basic legal

00:44:03 **1** principles about criminal conspiracy that exist regardless of  
-08:-42:-07 **2** the kind of criminal conspiracy with which a defendant has been  
00:44:10 **3** charged.

-08:-42:-07 **4** Agreement. To prove a criminal conspiracy, the  
-08:-42:-07 **5** government must prove, beyond a reasonable doubt, that two or  
00:44:22 **6** more persons conspired, or agreed, to cooperate with each other  
00:44:29 **7** to commit the crimes charged. This requires proof that there  
-08:-42:-07 **8** was a mutual understanding, either spoken or unspoken, between  
00:44:42 **9** two or more people, to cooperate with each other to commit the  
00:44:47 **10** crimes charged.

00:44:48 **11** To prove a conspiratorial agreement, the government  
-08:-42:-07 **12** need not prove that there was a formal written or spoken  
-08:-42:-07 **13** agreement. Nor must the government prove that everyone  
00:45:02 **14** involved agreed on all the details.

-08:-42:-07 **15** Facts and circumstance which indirectly lead to the  
-08:-42:-07 **16** conclusion that an agreement existed can suffice to prove a  
-08:-42:-07 **17** conspiracy. But it is up to the government to convince you  
00:45:19 **18** beyond a reasonable doubt that such facts and circumstance  
00:45:23 **19** existed with regard to each defendant.

00:45:29 **20** Proof that people simply met together from time to  
00:45:32 **21** time and talked about common interests, such as political views  
-08:-42:-07 **22** or religious beliefs, or engaged in similar conduct, is not  
-08:-42:-07 **23** enough to establish a criminal agreement. You may consider  
00:45:48 **24** these things in deciding whether the government has proved an  
-08:-42:-07 **25** agreement, but without more, they are not enough.

00:45:56 **1** A defendant cannot conspire with only a government  
-08:-42:-07 **2** agent. Thus Mr. Darren Griffin, the government's agent, cannot  
-08:-42:-07 **3** be the only other member, along with only a single defendant, of  
-08:-42:-07 **4** a conspiracy.

00:46:13 **5** Connection to the conspiracy: Knowingly and  
00:46:19 **6** voluntarily joining the conspiracy.

00:46:21 **7** If you are convinced beyond a reasonable doubt that  
-08:-42:-07 **8** an unlawful agreement existed, you must decide whether the  
00:46:31 **9** government has proved that the defendants knowingly and  
00:46:34 **10** voluntarily joined that agreement. You must consider each  
-08:-42:-07 **11** defendant separately in this regard.

00:46:41 **12** To convict any defendant, the government must prove  
00:46:47 **13** beyond a reasonable doubt that he knew the conspiracy's main  
-08:-42:-07 **14** purpose and that he voluntarily joined it intending to help  
00:46:56 **15** advance or achieve its goals.

-08:-42:-07 **16** A defendant's knowledge can be proved indirectly by  
-08:-42:-07 **17** facts and circumstances which lead to a conclusion that he knew  
-08:-42:-07 **18** the conspiracy's main purpose. The government must convince  
-08:-42:-07 **19** you beyond a reasonable doubt that such facts and circumstances  
00:47:18 **20** existed.

00:47:19 **21** This does not require proof that a defendant knew  
-08:-42:-07 **22** everything about the conspiracy, or everyone else involved, or  
-08:-42:-07 **23** that he was a member from the very beginning. Nor does it  
00:47:32 **24** require proof that a defendant played a major role in the  
-08:-42:-07 **25** conspiracy, or that his connection to it was substantial. A

-08:-42:-07 **1** slight role or connection may be enough.

00:47:43 **2** Proof that a defendant simply knew about a

-08:-42:-07 **3** conspiracy, or was present at times, or associated with members

-08:-42:-07 **4** of the group is not enough, even if he approved of what was

-08:-42:-07 **5** happening or did not object to it. Similarly, just because a

00:48:02 **6** defendant may have done something that happened to help a

-08:-42:-07 **7** conspiracy does not necessarily make him a conspirator. These

00:48:10 **8** are all things you may consider in deciding whether the

-08:-42:-07 **9** government has proved that a defendant joined a conspiracy.

-08:-42:-07 **10** Without more they are not enough.

00:48:21 **11** I will next explain the elements of the specific

-08:-42:-07 **12** counts (or charged) alleged in this case, and the law regarding

-08:-42:-07 **13** those counts.

00:48:35 **14** Instruction number 20, conspiracy to kill, kidnap,

00:48:41 **15** maim, or injure persons in a foreign country, 18 U.S. Code

-08:-42:-07 **16** Section 956(A).

00:48:51 **17** Count 1 of the indictment alleges that from on or

00:48:54 **18** about as early as June 2004 through on or about February 19,

00:49:01 **19** 2006, the defendants Mohammad Amawi, Marwan El-Hindi, and Wassim

00:49:08 **20** Mazloun conspired to murder or maim persons in a foreign country

-08:-42:-07 **21** in violation of 18 U.S. Code Section 956(A). That statute

00:49:23 **22** provides that:

00:49:24 **23** Whoever, within the jurisdiction of the United

-08:-42:-07 **24** States, conspires with one or more other persons, regardless of

-08:-42:-07 **25** where such other persons are located, to commit at any place

-08:-42:-07 **1** outside the United States an act that would constitute the  
-08:-42:-07 **2** offense of murder or maiming if committed in the special  
00:49:44 **3** maritime and territorial jurisdiction of the United States  
-08:-42:-07 **4** shall, if any of the conspirators commits an act within the  
00:49:52 **5** jurisdiction of the United States to effect any object of the  
-08:-42:-07 **6** conspiracy, be subject to punishment.

-08:-42:-07 **7** Elements of the offense. To satisfy its burden of  
00:50:07 **8** proof, the government must prove all, -- insert the word all --  
-08:-42:-07 **9** must prove all the following elements beyond a reasonable doubt:

00:50:20 **10** First, two or more people conspired (or agreed) to  
-08:-42:-07 **11** murder or maim a person or persons at some place outside the  
-08:-42:-07 **12** United States as I will define those terms;

00:50:39 **13** Second, the defendants knowingly and voluntarily  
-08:-42:-07 **14** joined the conspiracy;

00:50:46 **15** Third, the defendants were within the jurisdiction  
-08:-42:-07 **16** of the United States when they entered into the agreement; and.

00:50:56 **17** Fourth, during the existence of the agreement, one  
00:50:59 **18** of the conspirators -- but not necessarily one of the  
-08:-42:-07 **19** defendants -- committed at least one overt act within the  
-08:-42:-07 **20** jurisdiction of the United States in furtherance of any object  
-08:-42:-07 **21** of the agreement.

00:51:13 **22** The government need not prove that the defendants  
-08:-42:-07 **23** themselves (or others) actually murdered or maimed persons in a  
00:51:22 **24** foreign country, or that there were specific targets or victims  
-08:-42:-07 **25** identified.



00:51:31 **1** Definitions.

00:51:34 **2** "Murder" means the unlawful killing of a human

-08:-42:-07 **3** being with malice aforethought.

00:51:43 **4** "Malice aforethought" means, at the time of a

00:51:50 **5** killing, the offender intended to take the life of a human being

-08:-42:-07 **6** or to act in callous and wanton disregard to consequences to

-08:-42:-07 **7** human life.

-08:-42:-07 **8** "Maim" means to disfigure, cut, bite, or slit the

00:52:06 **9** nose, ear or lip, or cut out or disable the tongue, or put out

-08:-42:-07 **10** or destroy an eye, or disable a limb or any member of another

-08:-42:-07 **11** person; or throw or pour upon another person any scalding water,

00:52:20 **12** corrosive acid, or caustic substance.

-08:-42:-07 **13** "Outside the United States" means any place outside

-08:-42:-07 **14** the states of the United States, the District of Columbia, and

-08:-42:-07 **15** the territories and possessions of the United States, including

-08:-42:-07 **16** the territorial sea and the overlying air space.

00:52:38 **17** First element -- agreement to murder or maim

-08:-42:-07 **18** outside the United States.

00:52:45 **19** The government must first prove beyond a reasonable

00:52:49 **20** doubt that the defendants entered into an agreement, that is

00:52:53 **21** each defendant conspired (or agreed) with at least one other

00:52:58 **22** person who is not a government agent, to murder or maim another

00:53:02 **23** person at a place outside the United States, as I have defined

-08:-42:-07 **24** those terms for you.

00:53:09 **25** The elements regarding the entry into an agreement

00:53:13 **1** under conspiracy law that I gave you in instruction number 19

00:53:17 **2** apply in their entirety to the first element of this charge.

00:53:21 **3** Second element -- knowing and voluntarily joining

-08:-42:-07 **4** the conspiracy.

00:53:28 **5** The government must prove beyond a reasonable doubt

00:53:33 **6** that the defendants knowingly and voluntarily joined the

-08:-42:-07 **7** conspiracy to murder or maim another person at a place outside

-08:-42:-07 **8** the United States, as I have defined those terms for you.

-08:-42:-07 **9** The elements regarding knowingly and voluntarily

-08:-42:-07 **10** joining the conspiracy that I gave you in instruction 19 apply

-08:-42:-07 **11** in their entirety to the second element of this charge.

00:54:00 **12** Third element -- defendants were within the

00:54:10 **13** jurisdiction of the U.S. -- United States when the unlawful

-08:-42:-07 **14** agreement was made.

00:54:15 **15** The government must prove beyond a reasonable doubt

00:54:24 **16** that the defendants were within the jurisdiction of the United

00:54:28 **17** States at the times when the conspiratorial agreement was made.

00:54:36 **18** With respect to this element, the "jurisdiction of

00:54:39 **19** the United States" includes the territory of the United States,

-08:-42:-07 **20** the District of Columbia and the territories and possessions of

-08:-42:-07 **21** the United States.

00:54:51 **22** I instruct you, that as a matter of law, the

-08:-42:-07 **23** Northern District of Ohio, in which Toledo is located, the

-08:-42:-07 **24** Eastern District of Michigan, in which Detroit and its suburbs

-08:-42:-07 **25** are located, and the Northern District of Illinois, in which

-08:-42:-07 **1** Chicago is located, are within the jurisdiction of the United  
00:55:11 **2** States.

00:55:11 **3** The government need not show that all of the  
00:55:13 **4** parties to the agreement were located within this jurisdiction  
-08:-42:-07 **5** at the time the agreement was made; rather, the law requires  
-08:-42:-07 **6** only that you find beyond a reasonable doubt that a defendant  
-08:-42:-07 **7** was within the jurisdiction of the United States at the time the  
00:55:26 **8** agreement was made.

00:55:27 **9** Fourth element -- The government must also prove  
00:55:34 **10** beyond a reasonable doubt that one of the members of the  
-08:-42:-07 **11** conspiracy committed at least one overt act within the  
00:55:43 **12** jurisdiction of the United States in furtherance of the object  
-08:-42:-07 **13** of the conspiracy.

00:55:47 **14** To commit an overt act in furtherance of the object  
-08:-42:-07 **15** of a conspiracy, a participant need not undertake a course of  
-08:-42:-07 **16** action that is certain or even likely to result in the success  
-08:-42:-07 **17** of the conspiracy. The law does not require that the act in  
-08:-42:-07 **18** question be likely to yield an illegal result, or that the act  
00:56:12 **19** in question even be prohibited by law.

00:56:18 **20** Each defendant need not himself have personally  
00:56:23 **21** engaged in an act in furtherance of the conspiracy or have  
-08:-42:-07 **22** knowledge of the identity of the person committing the act.  
00:56:31 **23** You are not being asked whether the defendant knew, should have  
-08:-42:-07 **24** known, or could have known that the act in furtherance of the  
-08:-42:-07 **25** conspiracy took place. Rather, the government must prove that

00:56:44 **1** at least one overt act was committed by a member of the  
00:56:48 **2** conspiracy (within the jurisdiction of the United States), and  
-08:-42:-07 **3** that it was committed for the purpose of advancing or helping  
00:56:56 **4** the conspiracy.

00:56:57 **5** The government must prove beyond a reasonable doubt  
00:57:03 **6** that the act in furtherance of the conspiracy took place during  
-08:-42:-07 **7** the existence of the illegal agreement (or conspiracy). You  
-08:-42:-07 **8** may infer from the facts of this case whether the act took place  
-08:-42:-07 **9** while the illegal agreement actually existed. An act  
00:57:22 **10** undertaken by a participant in a conspiracy after the agreement  
00:57:25 **11** has ended cannot meet the government's burden with respect to  
-08:-42:-07 **12** this element.

-08:-42:-07 **13** When determining whether the alleged act was  
00:57:36 **14** intended to further an object of the agreement, consider all the  
-08:-42:-07 **15** facts and determine whether the circumstances permit you to  
-08:-42:-07 **16** conclude beyond a reasonable doubt that the act was intended to  
00:57:48 **17** further an object of the conspiracy.

00:57:51 **18** In conclusion, Count 1 of the indictment alleges  
-08:-42:-07 **19** that from on or about as early as June 2004, through on or about  
-08:-42:-07 **20** February 19, 2006, the defendants Mohammad Amawi, Marwan  
-08:-42:-07 **21** El-Hindi, and Wassim Mazloun conspired to murder or maim persons  
-08:-42:-07 **22** in a foreign country in violation of 18 U.S. Code, Section  
-08:-42:-07 **23** 956(A) If you find that the government has proven beyond a  
00:58:26 **24** reasonable doubt each and every element, then you may find the  
00:58:29 **25** defendants guilty of this charge.

00:58:31 **1** If you find that the government failed to prove  
-08:-42:-07 **2** each and every element as described beyond a reasonable doubt,  
00:58:39 **3** then you must find the defendants not guilty.

00:58:48 **4** Instruction Number 21, conspiracy to provide  
-08:-42:-07 **5** material support or resources to terrorists, 18 U.S. Code,  
-08:-42:-07 **6** Section 2339.

00:59:05 **7** Count 2 of the indictment alleges that from at  
00:59:09 **8** least as early as in or about June 2004 to on or about February  
00:59:14 **9** 19, 2006, the defendants Mohammad Amawi, Marwan El-Hindi, and  
00:59:19 **10** Wassim Mazloun conspired to provide material support or  
00:59:22 **11** resources to terrorists in violation of Title 18, United States  
-08:-42:-07 **12** Code, Section 2339(A). This statute provides in relevant part,  
-08:-42:-07 **13** that:

-08:-42:-07 **14** Whoever provides material support or resources,  
00:59:39 **15** knowing or intending that they are to be used in preparation  
-08:-42:-07 **16** for, or in carrying out, a violation of Section 2332 of this  
00:59:51 **17** title or attempts or conspires to do such an act is guilty of a  
-08:-42:-07 **18** crime.

00:59:57 **19** The "material support" that triggers Section  
01:00:05 **20** 2339(A) need not be to a particular or specified terrorist or  
-08:-42:-07 **21** terrorist group. Instead, the support must be given in  
-08:-42:-07 **22** furtherance of one of the enumerated criminal offenses set forth  
01:00:16 **23** in the statute.

01:00:17 **24** The defendants are charged with providing material  
01:00:21 **25** support that is alleged to have been in furtherance of a

-08:-42:-07 **1** violation of Title 18, United States Code, Section 2332, namely,  
-08:-42:-07 **2** the killing of United States national.

01:00:34 **3** Section 2332(A) reads as follows:

01:00:40 **4** Whoever kills a national of the United States,  
01:00:43 **5** while such national is outside the United States, shall be  
01:00:47 **6** punished under this title and section.

-08:-42:-07 **7** Elements of the offense.

01:00:51 **8** To meet its burden of proof on Count 2 of the  
-08:-42:-07 **9** indictment, the government must establish beyond a reasonable  
-08:-42:-07 **10** doubt all of the following three elements with respect to each  
-08:-42:-07 **11** defendant:

01:01:11 **12** First, the defendant conspired (or agreed) with at  
01:01:17 **13** least one other person who is not a government agent;

01:01:22 **14** Second, the object of the conspiracy was to provide  
-08:-42:-07 **15** material support or resources, with all of agreeing as to what  
01:01:31 **16** constituted the material support or resources; and.

-08:-42:-07 **17** Third, the defendant joined the conspiracy knowing  
01:01:39 **18** or intending that the support or resources provided were to be  
01:01:44 **19** used in preparation for, or in carrying out, the killing of  
-08:-42:-07 **20** United States nationals outside the United States.

01:01:52 **21** While the government must prove that the defendants  
-08:-42:-07 **22** knew or intended that the material support or resources in  
01:02:01 **23** question were to be used in preparation for, or in carrying out,  
01:02:06 **24** the killing of United States nationals outside of the United  
-08:-42:-07 **25** States, the government need not prove that the defendants

-08:-42:-07 **1** themselves (or others) actually killed United States nationals,

01:02:18 **2** or that there were specific targets or victims identified.

-08:-42:-07 **3** However, unless the government proves beyond a

01:02:27 **4** reasonable doubt that a defendant has committed each element of

-08:-42:-07 **5** this offense as I explain it to you, you must find him not

-08:-42:-07 **6** guilty.

01:02:35 **7** First element: Conspiracy (agreement).

01:02:40 **8** The government must prove beyond a reasonable doubt

01:02:43 **9** that each defendant joined the conspiracy (or agreed)with at

-08:-42:-07 **10** least one other person who is not a government agent to provide

01:02:52 **11** material support or resources, knowing or intending that the

01:02:57 **12** support or resources provided were to be used in preparation

-08:-42:-07 **13** for, or in carrying out, the killing of United States nationals

01:03:05 **14** outside the United States.

01:03:08 **15** The instructions as to a conspiratorial agreement

01:03:12 **16** that I gave you in instruction 19 apply to each element of this

-08:-42:-07 **17** charge.

01:03:17 **18** However, unlike the conspiracy law governing Count

-08:-42:-07 **19** 1 (18 U.S. Code, Section 956(a)(1)) I instruct you that you do

-08:-42:-07 **20** not have to find that a member of the conspiracy committed an

01:03:36 **21** overt act in furtherance of the conspiracy in order to find the

01:03:41 **22** defendant guilty beyond a reasonable doubt of conspiring to

-08:-42:-07 **23** provide material support or resources.

01:03:46 **24** Second element: Provision of material support.

01:03:52 **25** The government must prove beyond a reasonable doubt

01:03:59 **1** that the object of the conspiracy joined by each defendant was  
-08:-42:-07 **2** to provide material support or resources.

01:04:07 **3** Ladies and gentlemen, the word "material" in the  
-08:-42:-07 **4** phrase "material support or resources" modifies both the word  
01:04:22 **5** "support" and the word "resources". So that when you see that  
-08:-42:-07 **6** phrase you should understand that the government must prove  
01:04:34 **7** material support or material resources.

01:04:47 **8** I'm going to add the following at the end of the  
-08:-42:-07 **9** first sentence. The sentence reads: The government must prove  
-08:-42:-07 **10** beyond a reasonable doubt that the object of the conspiracy  
-08:-42:-07 **11** joined by each defendant was to provide material support or  
-08:-42:-07 **12** resources; the support or resources must be proven to be  
01:05:24 **13** material.

-08:-42:-07 **14** Counsel is that okay, Mr. Sofer, Mr. Teresinski?

01:05:36 **15** MR. TERESINSKI: I'll defer to Mr. Sofer.

01:05:44 **16** MR. SOFER: I'm speechless, Judge. I don't know  
-08:-42:-07 **17** whether it's acceptable or not.

01:05:52 **18** THE COURT: Why don't you come on up here, folks.

-08:-42:-07 **19** (Whereupon the following discussion was had at the  
01:09:25 **20** bench outside the hearing of the jury:)

01:09:25 **21** THE COURT: Number one, under the rule of leniency,  
-08:-42:-07 **22** I don't think the statute properly could be construed as simply  
-08:-42:-07 **23** material support but simply resources. I mean resources, I  
-08:-42:-07 **24** think it absolutely has to be, quote, material support or  
-08:-42:-07 **25** resources. I think as matter of grammatical instruction that's



-08:-42:-07 **1** correct.

-08:-42:-07 **2** MR. SOFER: I could be wrong about this. I think

-08:-42:-07 **3** material may not be the legal definition of material. It may

-08:-42:-07 **4** be the -- it may mean some sort of tangible object. In which

-08:-42:-07 **5** case it wouldn't modify any resources.

-08:-42:-07 **6** MR. TERESINSKI: I would say material support or

-08:-42:-07 **7** resources.

-08:-42:-07 **8** MR. SOFER: If Counsel wanted it to read material

-08:-42:-07 **9** support or material resources it would have added the word

-08:-42:-07 **10** material in a second time. I think it's kind of -- and I

-08:-42:-07 **11** understand what the Court's doing. I'm concerned about reading

-08:-42:-07 **12** it any differently than the way it is phrased.

-08:-42:-07 **13** It's possess -- I don't know the answer to this,

-08:-42:-07 **14** they're trying to say material support is some sort of tangible

-08:-42:-07 **15** object whereas resources could be like training, would not be

-08:-42:-07 **16** something that's material in the sense that it's actually a

-08:-42:-07 **17** document.

-08:-42:-07 **18** THE COURT: Okay.

-08:-42:-07 **19** MR. HARTMAN: Judge, I don't think you have to say

-08:-42:-07 **20** material resources, but I do think you have to say they have to

-08:-42:-07 **21** prove it, and what it is. That's why this statute defines what

-08:-42:-07 **22** it could be.

-08:-42:-07 **23** MR. TERESINSKI: The second element is we have --

-08:-42:-07 **24** the object of the conspiracy is what we have to prove.

-08:-42:-07 **25** MR. SOFER: It says the government must prove.

-08:-42:-07 **1** That's what he's telling them.

-08:-42:-07 **2** MR. WITMER-RICH: I agree with Your Honor that

-08:-42:-07 **3** under the rule of leniency, material resources.

-08:-42:-07 **4** THE COURT: It can't be something that --

-08:-42:-07 **5** MR. WITMER-RICH: Trivial, de minimus, that it's

-08:-42:-07 **6** simply --

-08:-42:-07 **7** THE COURT: Providing a postage stamp that somebody

-08:-42:-07 **8** puts on a letter that then a check is mailed to a control group.

-08:-42:-07 **9** MR. WITMER-RICH: I agree, Your Honor.

-08:-42:-07 **10** MR. TERESINSKI: We can do this all day, but what

-08:-42:-07 **11** if the stamp that you provide, you know you're providing this

-08:-42:-07 **12** stamp on a letter to further Al-Qaeda's --

-08:-42:-07 **13** MR. SOFER: I honestly don't know, Judge, whether

-08:-42:-07 **14** the word material means material the way we talk about a

-08:-42:-07 **15** material violation or material statement versus --

-08:-42:-07 **16** THE COURT: That's how I interpret this.

-08:-42:-07 **17** MR. SOFER: -- an actual definition of material

-08:-42:-07 **18** like money or --

-08:-42:-07 **19** THE COURT: I think it's used as an adjective and

-08:-42:-07 **20** modifies both words. I'm going to let my instruction stand.

-08:-42:-07 **21** MR. TERESINSKI: I asked him to read it that way,

-08:-42:-07 **22** it was as material support or resources.

01:09:29 **23** (End of side-bar discussion.)

01:09:34 **24** THE COURT: Just so you understand, I think we

-08:-42:-07 **25** should be done shortly after 10:00 with this part, probably

-08:-42:-07 **1** another 15 or 20 minutes.

-08:-42:-07 **2** Quote, material support or resources, close quote,  
-08:-42:-07 **3** is defined to include any property, tangible or intangible, or  
01:09:56 **4** service, including currency or monetary instruments or financial  
-08:-42:-07 **5** securities, training, communications equipment, explosives or  
-08:-42:-07 **6** personnel.

-08:-42:-07 **7** "Training" means instruction or teaching to impart  
-08:-42:-07 **8** a specific skill, as opposed to general knowledge.

01:10:14 **9** "Personnel" refers to one or more individuals and  
-08:-42:-07 **10** may include one or more of the defendants themselves.

01:10:22 **11** A person provides material support or resources if  
-08:-42:-07 **12** he makes available or physically transfers or sends the support  
-08:-42:-07 **13** or resources.

01:10:32 **14** In sum, the government has the burden of proving  
-08:-42:-07 **15** that each defendant conspired to provide material support or  
-08:-42:-07 **16** resources either by agreeing to make himself or another person  
-08:-42:-07 **17** available in preparation for or in carrying out the killing of  
-08:-42:-07 **18** United States nationals outside the United States, or by  
01:10:57 **19** agreeing to make available other material support or resources  
01:11:02 **20** such as money, training, explosives, communications equipment,  
01:11:08 **21** or computers, intending that they may be used in preparation  
01:11:13 **22** for, or in carrying out, the killing of United States nationals  
01:11:17 **23** outside the United States.

01:11:19 **24** Third element: Knowing or intending material  
01:11:25 **25** support or resources would be used "in preparation for" or

01:11:31 **1** carrying out the killing of United States nationals.

01:11:34 **2** The third element that the government must prove  
01:11:37 **3** beyond a reasonable doubt is that each defendant conspired to  
-08:-42:-07 **4** provide the material support or resources, knowing or intending  
01:11:46 **5** that the material support or resources would be used in  
-08:-42:-07 **6** preparation for, or in carrying out, the killing of United  
01:11:56 **7** States nationals outside the United States.

01:11:58 **8** An act is done "knowingly" if the defendant is  
-08:-42:-07 **9** aware of the act and does not act through ignorance, mistake, or  
-08:-42:-07 **10** accident. You may consider evidence of the defendant's words,  
01:12:16 **11** acts, or omissions, along with all the other evidence, in  
01:12:20 **12** deciding whether the defendant acted knowingly.

01:12:23 **13** An act is done "intentionally" if it is done  
01:12:28 **14** deliberately. You may consider evidence of the defendant's  
-08:-42:-07 **15** words, acts, or omissions, along with all the other evidence in  
01:12:35 **16** deciding whether the defendant acted intentionally.

01:12:38 **17** The term "United States" includes all the states,  
-08:-42:-07 **18** territories, and possessions of the United States, and all  
-08:-42:-07 **19** places and waters subject to the jurisdiction of the United  
-08:-42:-07 **20** States.

-08:-42:-07 **21** A "United States National" is a citizen of the  
-08:-42:-07 **22** United States or a person owing permanent allegiance to the  
01:13:04 **23** United States.

-08:-42:-07 **24** The government need not prove that the defendant  
-08:-42:-07 **25** knew that his actions violated a specific statute or that he was

01:13:13 **1** breaking the law. It is sufficient for the government to prove  
01:13:17 **2** the defendant acted with the knowledge or intent that the  
-08:-42:-07 **3** material support or resources he conspired to provide would be  
01:13:26 **4** used in preparation for, or in carrying out, the killing of  
-08:-42:-07 **5** United States nationals outside the United States.

01:13:34 **6** In conclusion, as I have mentioned, Count 2 of the  
-08:-42:-07 **7** indictment alleges that from at least as early as in or about  
01:13:44 **8** June 2004, to on or about February 19, 2006, the defendants  
01:13:50 **9** Mohammad Amawi, Marwan El-Hindi, and Wassim Mazloum conspired to  
-08:-42:-07 **10** provide material support or resources to terrorists in violation  
01:14:00 **11** of Title 18, United States Code, Section 2339(a). If you find  
-08:-42:-07 **12** that the government has proven beyond a reasonable doubt each of  
-08:-42:-07 **13** the elements as I have described them to you, then you may find  
-08:-42:-07 **14** the defendants guilty of this charge.

-08:-42:-07 **15** If you find that the government failed to prove  
-08:-42:-07 **16** each and every element as described, beyond a reasonable doubt,  
01:14:22 **17** then you must find the defendants not guilty.

01:14:29 **18** Instruction Number 22. Distribution of  
-08:-42:-07 **19** information concerning explosives or destructive devices with  
-08:-42:-07 **20** intent to further a federal crime of violence. 18 United  
01:14:41 **21** States Code, Section 842(p)(2)(A).

01:14:46 **22** The Defendants Amawi and El-Hindi have been charged  
01:14:49 **23** with two separate violations each of 18 U.S. Code, Section  
-08:-42:-07 **24** 842(p)(2)(A), which states that:

01:14:57 **25** It shall be unlawful for any person to teach or

01:15:02 **1** demonstrate the making or use of an explosive, or destructive  
01:15:08 **2** device, or to distribute by any means, information pertaining  
-08:-42:-07 **3** to, in whole or in part, the manufacture or use of an explosive,  
-08:-42:-07 **4** or destructive device, with the intent that the teaching,  
01:15:23 **5** demonstration, or information be used for, or in furtherance of,  
01:15:29 **6** an activity that constitutes a federal crime of violence . To  
01:15:34 **7** summarize, the charges in the indictment against two of the  
-08:-42:-07 **8** defendants, Mohammad Amawi and Marwan El-Hindi, include the  
-08:-42:-07 **9** following:

-08:-42:-07 **10** Count 3: Mohammad Amawi.

01:15:48 **11** This count relates to evidence consisting of the

01:15:51 **12** Martyrdom Operation Vest Preparation, or "bomb vest video."

01:15:58 **13** The indictment alleges that on or about January 10,

01:16:03 **14** 2005, and on or about January 30, 2005, Defendant Mohammad Amawi

01:16:10 **15** distributed information pertaining to, in whole or in part, the

01:16:13 **16** manufacture or use of an explosive or destructive device (i.e.,

-08:-42:-07 **17** that bomb vest video which depicted the step-by-step

01:16:22 **18** construction and use of a suicide bomb vest, an explosive, and a

01:16:27 **19** destructive device with the intent to commit and further a

-08:-42:-07 **20** federal crime of violence (i.e., the killing of a U.S. national

01:16:35 **21** of the United States outside of the United States, or the

01:16:38 **22** killing of any officer or employee of the United States).

01:16:43 **23** Count 4: This count relates to evidence consisting

-08:-42:-07 **24** of one six-page (and one three-page) written guides referred to

-08:-42:-07 **25** in evidence as the "explosives cookbook describing the

01:17:02 **1** step-by-step process for manufacturing chemical explosive

-08:-42:-07 **2** compounds constituting an explosive."

01:17:09 **3** The indictment alleges that on or about February 6,

01:17:14 **4** 2005, Defendant Mohammad Amawi distributed information

01:17:17 **5** pertaining to, in whole or in part, the manufacture or use of an

-08:-42:-07 **6** "explosive" or "destructive device" with the intent to commit

-08:-42:-07 **7** and further a federal crime of violence (i.e., the killing of a

01:17:32 **8** U.S. national of the United States outside of the United States,

01:17:36 **9** or the killing of any officer or employee of the United States).

-08:-42:-07 **10** Count five: Marwan El-Hindi.

01:17:43 **11** This count relates to evidence consisting of the

01:17:47 **12** Martyrdom Operation Vest Preparation, or "bomb vest video".

-08:-42:-07 **13** The indictment alleges that on or about February 8,

01:17:57 **14** 2005, Defendant Marwan El-Hindi distributed information

-08:-42:-07 **15** pertaining to, in whole or in part, the manufacture or use of an

-08:-42:-07 **16** explosive or destructive device (i.e., the "bomb vest video"),

-08:-42:-07 **17** which depicted the step-by-step instruction and use of a suicide

01:18:15 **18** bomb vest, an explosive and destructive device, with the intent

-08:-42:-07 **19** to commit and further a federal crime of violence (i.e., the

-08:-42:-07 **20** killing of a U.S. national of the United States outside of the

-08:-42:-07 **21** United States, or the killing of any officer or employee of the

01:18:31 **22** United States).

-08:-42:-07 **23** Count 6: Marwan El-Hindi. This count relates to

-08:-42:-07 **24** evidence consisting of an electronically forwarded e-mail

01:18:40 **25** message with an attachment containing a photographic slide show,

01:18:44 **1** including a written narrative, depicting an attack on United  
01:18:48 **2** States military personnel in or around the country of Iraq.  
01:18:51 **3** The indictment alleges that on or about February  
01:18:54 **4** 25, 2005, Defendant Marwan El-Hindi distributed information  
01:19:01 **5** pertaining to, in whole or in part, the manufacture or use of an  
-08:-42:-07 **6** explosive or destructive device, that demonstrated the  
01:19:10 **7** preparation and use, against apparent United States military  
01:19:14 **8** vehicles and personnel, of improvised explosive devices (IEDs)an  
-08:-42:-07 **9** explosive and a destructive device, and that he did so with the  
-08:-42:-07 **10** intent to commit and further a federal crime of violence (i.e.,  
-08:-42:-07 **11** that these instructional materials would be used to train others  
-08:-42:-07 **12** in the construction and use of such IEDs to commit the killing  
-08:-42:-07 **13** of U.S. nationals outside of the United States, or the killing  
-08:-42:-07 **14** of any officer or employee of the United States).

-08:-42:-07 **15** Elements of the offense.

01:19:50 **16** As to each of these counts, to satisfy its burden  
-08:-42:-07 **17** of proof, the government must establish all of the following  
01:20:01 **18** elements beyond a reasonable doubt:

-08:-42:-07 **19** First, the defendant distributed by any means  
-08:-42:-07 **20** information pertaining to, in whole or in part, the manufacture  
-08:-42:-07 **21** or use of an explosive, or destructive device; and.

01:20:19 **22** Second, the defendant acted with the intent that  
-08:-42:-07 **23** the information be used for, or in furtherance of, an activity  
-08:-42:-07 **24** that constitutes a federal crime of violence; namely, the  
01:20:32 **25** killing of a United States national outside the United States,



-08:-42:-07 **1** or the killing of any officer or employee of the United  
01:20:40 **2** States -- or the killing of any officer or employee of the  
-08:-42:-07 **3** United States.

-08:-42:-07 **4** The first element, distribution of the -- of the  
01:20:59 **5** manufacture or use of an explosive, destructive device. The  
01:21:03 **6** first element that the government must prove beyond a reasonable  
01:21:05 **7** doubt is that the defendant distributed, by any means,  
01:21:09 **8** information pertaining to, in whole or in part, the manufacture  
-08:-42:-07 **9** or use of an explosive or destructive device.

-08:-42:-07 **10** Definitions.

01:21:19 **11** The terms used in the first element of this charge  
-08:-42:-07 **12** have the following meanings:

-08:-42:-07 **13** "Distribute" means to "sell, issue, give, transfer,  
-08:-42:-07 **14** or otherwise dispose of by any means.

01:21:35 **15** "Explosive" includes:

01:21:39 **16** Gun powders, powders used for blasting, all forms  
-08:-42:-07 **17** of high explosives, blasting materials, fuses (other than  
01:21:48 **18** electric circuit breakers), detonators, and other detonating  
01:21:53 **19** agents, smokeless powder, other explosive or incendiary devices  
-08:-42:-07 **20** and any chemical compound, mechanical mixture, or device that  
01:22:02 **21** contains any oxidizing and combustible components or other  
-08:-42:-07 **22** ingredients in such proportion, quantities, or packing that  
01:22:11 **23** ignition by fire, friction, concussion, percussion, or  
01:22:15 **24** detonation of the compound, mixture, or device or any part  
-08:-42:-07 **25** thereof may cause an explosion.

Destructive device includes:

Any explosive, incendiary, or poison gas. Any bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine or device similar to any of the devices described in the preceding clauses, and any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph A or B and from which a destructive device may be readily assembled.

A "federal crime of violence" is either:

A, an offense that as an anarchist element, the use, attempted use, or threatened use of physical force against the person or property of another or;

B, any other offense that is a felony, and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

"U.S. national of the United States "is:

A citizen of the United States or a person who is not a citizen of the United States but who owes permanent allegiance to the United States.

"Officer or employee of the United States" is:

Any officer or employee of the United States or any agency in any branch of the United States government (including

-08:-42:-07 **1** any member of the uniformed services)while such officer or  
01:24:16 **2** employee is engaged in or on account of the performance of  
-08:-42:-07 **3** official duties, or any person assisting such an officer or  
-08:-42:-07 **4** employee in the performance of such duties or on account of that  
-08:-42:-07 **5** assistance in this case, the government alleges that the federal  
01:24:32 **6** crime of violence that the defendant intended his information to  
-08:-42:-07 **7** be used for, or in furtherance of, was either Title 818, Section  
01:24:40 **8** 2332(A), killing of U.S. nationals outside the United States, or  
01:24:49 **9** Title 18, United States Code, Section 1114, the killing of any  
01:24:53 **10** officer or employee of the United States. Those offenses  
-08:-42:-07 **11** constitute federal crimes of violence under the definition that  
-08:-42:-07 **12** I have just given you.

01:25:02 **13** Second element -- intent.

-08:-42:-07 **14** The government must prove beyond a reasonable doubt  
01:25:07 **15** that each defendant had the intent to further a federal crime of  
-08:-42:-07 **16** violence, namely the killing of a U.S. national of the United  
01:25:16 **17** States outside the United States or an officer or employee of  
-08:-42:-07 **18** the United States. "Intent" means that the defendant's purpose  
-08:-42:-07 **19** in providing the information was that it be used by the  
-08:-42:-07 **20** recipients to commit, or for the further commission of, or to be  
01:25:38 **21** used for, or in furtherance of, a federal crime of violence.

-08:-42:-07 **22** In conclusion:

01:25:47 **23** Count 3 of indictment alleges that on or about  
-08:-42:-07 **24** January 10, 2005, and/or on or about January 30, 2005, defendant  
-08:-42:-07 **25** Mohammad Amawi distributed information pertaining to, in whole

-08:-42:-07 **1** or part, in manufacture or use of an explosive or destructive  
01:26:05 **2** device (the Martyrdom Operation Vest Preparation or "bomb vest  
01:26:12 **3** video".

01:26:12 **4** MR. HARTMAN: Your Honor, could we see you for just  
-08:-42:-07 **5** a second?

01:26:17 **6** (Whereupon the following discussion was had at the  
01:28:32 **7** bench outside the hearing of the jury:)

01:28:32 **8** MR. HARTMAN: I don't want to be hypertechnical,  
-08:-42:-07 **9** but shouldn't the intent element be read with each of those  
-08:-42:-07 **10** counts as well individually.

-08:-42:-07 **11** THE COURT: I don't think so. No, I mean I  
-08:-42:-07 **12** defined intent. I don't have the preceding page.

-08:-42:-07 **13** MR. HARTMAN: I know you defined the intent.

-08:-42:-07 **14** MR. SOFER: All this does is lay out sort of what  
-08:-42:-07 **15** each one is. Then the Court says as to these four counts, if  
-08:-42:-07 **16** you find the government has proven beyond a reasonable doubt  
-08:-42:-07 **17** each of the elements I have described to you...

-08:-42:-07 **18** THE COURT: Yeah.

-08:-42:-07 **19** MR. HARTMAN: Okay.

-08:-42:-07 **20** THE COURT: It's incorporated by reference. This  
-08:-42:-07 **21** is just a summary.

-08:-42:-07 **22** MR. GETZ: While we're here, another minor  
-08:-42:-07 **23** technicality. There's a reference here to subparagraph A or B.

-08:-42:-07 **24** But there's no reference to subparagraph A or B. And I note in  
-08:-42:-07 **25** the cross-reference where that definition comes from, that

-08:-42:-07 **1** subparagraph B does not apply to this definition here. So it  
-08:-42:-07 **2** could, just to avoid their confusion, they may be wondering what  
-08:-42:-07 **3** subparagraph A or B is; it could just reference the items  
-08:-42:-07 **4** described above.  
-08:-42:-07 **5** THE COURT: So you would suggest I do what,  
-08:-42:-07 **6** delete -- disregard my reference to A or B?  
-08:-42:-07 **7** MR. GETZ: Correct.  
-08:-42:-07 **8** MR. HARTMAN: No objection.  
-08:-42:-07 **9** THE COURT: I wondered myself.  
-08:-42:-07 **10** (End of sidebar discussion.)  
01:28:43 **11** THE COURT: Ladies and gentlemen, what I'm going to  
-08:-42:-07 **12** do, because I lost my place, can't remember which of these  
-08:-42:-07 **13** summary paragraphs I ended with -- Counsel, if you'll return  
-08:-42:-07 **14** back to page 39.  
01:29:04 **15** At the carryover paragraph up above on the top of  
01:29:14 **16** that page, the definition of destructive, simply delete the  
01:29:28 **17** words, described -- no, the next to last and last lines of that  
01:29:35 **18** carryover paragraph, delete the words, "described in  
-08:-42:-07 **19** subparagraph A or B." Correct, Counsel?  
01:29:43 **20** MR. SOFER: Yes, Judge.  
01:29:47 **21** THE COURT: Defendants, correct?  
-08:-42:-07 **22** MR. HARTMAN: Yes, Your Honor.  
01:29:58 **23** THE COURT: I'm going to start on page 40. The  
-08:-42:-07 **24** fact I may be rereading some portion of this is not for  
01:30:07 **25** emphasis, I just want to make sure I read it all. I couldn't

-08:-42:-07 **1** remember exactly where I stopped.

01:30:13 **2** In conclusion: Count 3 of the indictment alleges

-08:-42:-07 **3** that on or about January 10, 2005, and on or about January 30,

-08:-42:-07 **4** 2005, Defendant Mohammad Amawi distributed information

01:30:25 **5** pertaining to, in whole or part, the manufacture or use of an

-08:-42:-07 **6** explosive or destructive device, (the Martyrdom Operation Vest

01:30:35 **7** Preparation or "bomb vest video").

-08:-42:-07 **8** Count 4 of the indictment alleges that on or about

01:30:42 **9** February 6, 2005, Defendant Mohammad Amawi distributed

-08:-42:-07 **10** information pertaining to, in whole or in part, the manufacture

-08:-42:-07 **11** or use of an explosive or destructive device (the explosives

01:30:53 **12** cookbook).

01:30:55 **13** Count 5 of the indictment alleges that on or about

01:30:58 **14** February 8, 2005, Defendant Marwan El-Hindi distributed

-08:-42:-07 **15** information pertaining to, in whole or in part, the manufacture

01:31:06 **16** or use of an explosive or destructive device (the Martyrdom

-08:-42:-07 **17** Operation Vest Preparation or "the bomb vest video").

-08:-42:-07 **18** Count 6 of the indictment alleges that on or about

-08:-42:-07 **19** February 25, 2005, Defendant Marwan El-Hindi distributed

01:31:22 **20** information pertaining to, in whole or in part, the manufacture

-08:-42:-07 **21** or use of an explosive or destructive device (the improvised

01:31:32 **22** explosive device, or IED, e-mail document and related explosives

01:31:37 **23** information).

-08:-42:-07 **24** As to these four counts, if you find the government

01:31:42 **25** has proven beyond a reasonable doubt each of the elements as I

01:31:46 **1** have described them to you, then you may find the charged  
01:31:49 **2** defendant guilty of the count with which he is charged.  
01:31:53 **3** If you find that the government has failed to prove  
-08:-42:-07 **4** each and every element as I have described them to you beyond a  
01:32:01 **5** reasonable doubt, then you must find the charged defendant not  
01:32:04 **6** guilty.  
01:32:11 **7** Instruction number 23, false exculpatory  
-08:-42:-07 **8** statements, consciousness of guilt.  
-08:-42:-07 **9** You have heard testimony that after the crime was  
01:32:21 **10** supposed to have been committed, Defendant Marwan El-Hindi made  
-08:-42:-07 **11** a statement to the government.  
-08:-42:-07 **12** If you believe that this defendant did so, and that  
01:32:28 **13** any portion of his statement was false, then you may consider  
-08:-42:-07 **14** this conduct, along with all the other evidence, in deciding  
-08:-42:-07 **15** whether the government has proved beyond a reasonable doubt that  
-08:-42:-07 **16** the defendant committed the crimes charged. This conduct may  
01:32:44 **17** indicate that one or more of the defendants thought he was  
01:32:47 **18** guilty and was trying to avoid punishment. On the other hand,  
01:32:51 **19** sometimes an innocent person may give a false statement for some  
01:32:55 **20** other reason.  
01:32:57 **21** Counsel come on up here again, please.  
-08:-42:-07 **22** (Whereupon the following discussion was had at the  
01:35:02 **23** bench outside the hearing of the jury:)  
01:35:02 **24** MR. SOFER: I assume you don't want, or they don't  
-08:-42:-07 **25** want this.

-08:-42:-07 **1** THE COURT: Or more defendants?

-08:-42:-07 **2** MR. TERESINSKI: Strike that.

-08:-42:-07 **3** THE COURT: This conduct may indicate that

-08:-42:-07 **4** Mr. El-Hindi -- I'm just going to say Mr. El-Hindi thought he

-08:-42:-07 **5** was guilty.

-08:-42:-07 **6** MR. SOFER: We'd ask you to say Defendant El-Hindi

-08:-42:-07 **7** since that's consistently how we're referring to him.

-08:-42:-07 **8** MR. HARTMAN: I would ask that you not.

-08:-42:-07 **9** THE COURT: But this relates only to him. Any

-08:-42:-07 **10** false -- the conspiracy is done. So any statement he made is

-08:-42:-07 **11** not a coconspirator statement and relates only to him.

-08:-42:-07 **12** MR. HARTMAN: I guess say -- I guess "Defendant

-08:-42:-07 **13** El-Hindi" is the part I don't like coming out of your mouth,

-08:-42:-07 **14** Judge.

-08:-42:-07 **15** THE COURT: It says Defendant Marwan El-Hindi.

-08:-42:-07 **16** MR. TERESINSKI: Just so the record is clear, I

-08:-42:-07 **17** think it was pretty much a typo.

-08:-42:-07 **18** (End of sidebar).

01:35:05 **19** THE COURT: Believe it or not, I think we're still

01:35:07 **20** going to be done with this section by 10:30.

01:35:13 **21** Ladies and gentlemen, as I indicated at the last

-08:-42:-07 **22** part of this charge, number 23, this one charge relates only to

-08:-42:-07 **23** the Defendant Marwan El-Hindi. Marwan El-Hindi, and as printed

-08:-42:-07 **24** and read to you, it contained the phrase: One or more of the

01:35:33 **25** defendants. I'm going to delete that. I'm going to insert the



-08:-42:-07 **1** term "Defendant El-Hindi" in its place. But let me start and  
-08:-42:-07 **2** read the whole charge to you. Then I'll give you a moment to  
01:35:54 **3** delete and fill in. My rereading the charge should not be  
-08:-42:-07 **4** taken by you as any indication of emphasis, simply for your  
01:36:03 **5** comprehension of the correct version of the charge.  
-08:-42:-07 **6** Instruction number 23, false exculpatory  
-08:-42:-07 **7** statements, consciousness of guilt.  
01:36:12 **8** You have heard testimony that after the crime was  
01:36:15 **9** supposed to have been committed, Defendant Marwan El-Hindi made  
-08:-42:-07 **10** a statement to the government. If you believe that this  
01:36:22 **11** defendant did so, and that any portions of his statement was  
-08:-42:-07 **12** false, then you may consider this conduct, along with all the  
01:36:30 **13** evidence -- along with all the other evidence in deciding  
01:36:34 **14** whether the government has proved beyond a reasonable doubt that  
-08:-42:-07 **15** the defendant, Marwan El-Hindi, committed the crimes charged.  
01:36:46 **16** This conduct may indicate that -- then delete the phrase "one or  
-08:-42:-07 **17** more of the defendants." It was incorrect to have included  
-08:-42:-07 **18** that. And insert: This conduct may indicate that the  
01:37:07 **19** Defendant Marwan El-Hindi thought he was guilty and was trying  
-08:-42:-07 **20** to avoid punishment. On the other hand, sometimes an innocent  
01:37:18 **21** person may give a false statement for some other reason.  
01:37:23 **22** Ladies and gentlemen, that concludes the reading of  
-08:-42:-07 **23** the first two parts of the instructions. And I will read you  
-08:-42:-07 **24** the third part relating to the deliberations at the conclusion  
-08:-42:-07 **25** of all the arguments. So let's take about a 15- minute break.

-08:-42:-07 **1** We will begin with the government's opening closing argument.

01:53:59 **2** (Recess taken).

-08:-42:-07 **3** THE COURT: I deem all the objections previously

01:54:03 **4** made and overruled to the charge to be renewed and preserved for

01:54:11 **5** purposes of the record. On the matter of the few exhibits that

01:54:18 **6** remain to be formally admitted, I'd just as soon do that now,

-08:-42:-07 **7** unless there's any objection.

01:54:30 **8** Mr. Sofer, as always when you reach a point where

01:54:36 **9** you'd like to break, we'll take a break.

-08:-42:-07 **10** MR. SOFER: You'd like to do it around noon?

01:54:46 **11** THE COURT: Whenever.

01:54:51 **12** MR. SOFER: We'll see how it goes.

01:55:59 **13** (Jury in.)

-08:-42:-07 **14** THE COURT: Ladies and gentlemen, Mr. Sofer will

-08:-42:-07 **15** now present the government's opening closing argument. As I

01:56:10 **16** previously indicated to you, because the government has the

-08:-42:-07 **17** burden of proof it gets to go first, and also it gets to argue

-08:-42:-07 **18** in rebuttal, a rejoinder to arguments presented by defense

01:56:24 **19** counsel.

-08:-42:-07 **20** I want simply to remind you of a couple things.

-08:-42:-07 **21** Arguments of counsel are not evidence. It's at this point

-08:-42:-07 **22** where each of the attorneys who will be presenting their closing

01:56:37 **23** arguments to you undertake to evaluate the evidence, I believe

01:56:45 **24** some -- maybe even a fair portion of what you are seeing or

01:56:51 **25** displayed will have been heard by you. That's appropriate.

01:56:59 **1** Closing argument is to point you to and point your  
01:57:04 **2** attention and for counsel to discuss and undertake to interpret  
01:57:08 **3** the significance of those portions of the evidence which counsel  
01:57:14 **4** thinks are appropriate -- most appropriate and should be  
01:57:20 **5** considered by you in reaching a verdict. I remind you in  
01:57:24 **6** reaching your verdict you must consider all of the evidence.  
01:57:27 **7** Finally, as I've already noted, if I -- I don't  
-08:-42:-07 **8** expect this will happen, but if counsel either misstates  
01:57:35 **9** something about what the evidence was or is, or misrecites some  
01:57:42 **10** aspect of the law -- number one, I am confident that that would  
-08:-42:-07 **11** be unintentional -- but in any event, in reaching your  
01:57:51 **12** deliberations you must rely upon what the evidence actually  
-08:-42:-07 **13** said, the law as I instructed you about the law.  
01:57:59 **14** Mr. Sofer, you may begin.  
-08:-42:-07 **15** MR. SOFER: Thank you, Judge.  
01:58:03 **16** Good morning, ladies and gentlemen.  
01:58:08 **17** THE JUROR: Good morning.  
01:58:09 **18** MR. SOFER: Your Honor, Counsel --  
01:58:14 **19** THE JUROR: Your Honor, could I get a different set  
-08:-42:-07 **20** of headphones? These have a lot of static.  
01:58:33 **21** MR. SOFER: Ladies and gentlemen, this case is  
01:58:36 **22** about terrorism. Planning and training to engage in violent  
01:58:42 **23** Jihad overseas is terrorism. Planning and training to engage  
01:58:48 **24** in attacks on United States troops in Iraq or Afghanistan is  
-08:-42:-07 **25** terrorism. Planning to support people, the people that kill

-08:-42:-07 **1** our troops with IEDs and suicide bombs, is terrorism. Planning  
01:59:07 **2** to support or conspiring to learn how to build bombs, how to use  
-08:-42:-07 **3** sniper tactics to kill people for holy war is terrorism. But,  
-08:-42:-07 **4** ladies and gentlemen, perhaps more importantly, these activities  
-08:-42:-07 **5** are a violation of our country's laws.

01:59:31 **6** Conspiring to engage in violent jihad, which is  
-08:-42:-07 **7** what the evidence in this case has proven these defendants did  
01:59:38 **8** beyond a reasonable doubt, violates both of the conspiracy  
01:59:43 **9** statutes that the Judge just read to you. If you think about  
-08:-42:-07 **10** it, those statutes themselves define the concept of violent  
-08:-42:-07 **11** Jihad. These laws, ladies and gentlemen, exist to prevent  
-08:-42:-07 **12** people from supporting those who want to kill United States  
02:00:04 **13** nationals overseas, including the men and women who serve in our  
-08:-42:-07 **14** military. And there are laws that exist to prevent people from  
02:00:13 **15** direct materials that teach and demonstrate the use of bombs and  
02:00:17 **16** explosives with the intent to commit violent acts against  
02:00:23 **17** others.

02:00:26 **18** That's what this case is about, and the credible  
02:00:29 **19** and reliable evidence that you heard in this courtroom over the  
-08:-42:-07 **20** last two months proved beyond a reasonable doubt that these  
-08:-42:-07 **21** defendants -- Mohammad Amawi, Marwan El-Hindi, and Wassim  
-08:-42:-07 **22** Mazloun -- are guilty of each of the charges that the government  
-08:-42:-07 **23** has brought.

02:00:51 **24** Let me say a few words about what the case is not  
-08:-42:-07 **25** about. It's not about people's religious or political beliefs.

02:00:59 **1** It's not about the political situation in Iraq or in Jordan or  
-08:-42:-07 **2** in Lebanon. It's about what happened here in the United  
02:01:09 **3** States. The reason you're not going to see me put up a big  
-08:-42:-07 **4** globe that goes around and around is none of that matters. It  
-08:-42:-07 **5** happened mostly right here in Toledo. It's not about the  
02:01:22 **6** Middle East conflict. It's not about sympathy for these  
02:01:25 **7** defendants or prejudice against them. And it's not about some  
-08:-42:-07 **8** foreign idea that are unfamiliar to every one of you. Do not  
-08:-42:-07 **9** let yourselves be distracted by the reference to these things.  
02:01:41 **10** Focus on the evidence that was presented to you and the law as  
-08:-42:-07 **11** the Judge has read it to you. You should use your common sense  
02:01:49 **12** and your life experience to analyze this evidence. You do not  
-08:-42:-07 **13** need a master's degree in foreign relations to determine the  
02:01:57 **14** guilt or innocence of these defendants. You had everything you  
-08:-42:-07 **15** needed to decide this case the moment you were selected as  
02:02:05 **16** jurors.  
02:02:07 **17** Now, what does the evidence in this case show? It  
02:02:10 **18** proves beyond a reasonable doubt that these three defendants --  
-08:-42:-07 **19** Mohammad Amawi, Marwan El-Hindi, and Wassim Mazloun -- conspired  
-08:-42:-07 **20** to murder or maim people overseas, to provide support to those  
-08:-42:-07 **21** who seek to kill U.S. nationals overseas, and it also proved  
-08:-42:-07 **22** that Mohammad Amawi and Marwan El-Hindi distributed bomb making  
-08:-42:-07 **23** materials with the intent that they further a federal crime of  
-08:-42:-07 **24** violence, as the Judge has described it to you.  
02:02:40 **25** The recordings made in this case make up most but

-08:-42:-07 **1** not all of the evidence that has been presented to you.

-08:-42:-07 **2** Shortly I'm going to go through many of those recordings. I'm

-08:-42:-07 **3** not going to go through all of them. We don't have the time,

-08:-42:-07 **4** and you'd probably throw your juror books at me anyway. I

-08:-42:-07 **5** will, however, tell you, ladies and gentlemen, that you have the

-08:-42:-07 **6** right to listen to these recordings again if you so choose.

-08:-42:-07 **7** And if you want to hear something again, I encourage you to ask

-08:-42:-07 **8** the Judge to let you do that.

-08:-42:-07 **9** Also, please do not forget to listen carefully to

-08:-42:-07 **10** the context of these conversations. Often the words are given

-08:-42:-07 **11** meaning by what else is being discussed or viewed, or what else

-08:-42:-07 **12** has been said before or after particular statements. Among

02:03:37 **13** other things, these recordings prove beyond a reasonable doubt

02:03:39 **14** that any one of these three defendants could have run, much less

02:03:46 **15** walked away from Darren Griffin or each other any time they

-08:-42:-07 **16** wanted to. Nothing forced these defendants to call Darren

02:03:57 **17** Griffin or to answer his calls. Nothing forced these

-08:-42:-07 **18** defendants to discuss what they discussed, plan what they

02:04:04 **19** planned, share what they shared, and act as they acted. Darren

-08:-42:-07 **20** Griffin did not give any of these defendants anything that would

02:04:15 **21** under any reasonable circumstances or view of the evidence

02:04:19 **22** motivate them, any of them, to do the kind of things they did or

-08:-42:-07 **23** say the kind of things they did. They were ready, willing, and

-08:-42:-07 **24** able participants in the charged crimes. In fact, they were

-08:-42:-07 **25** often enthusiastic, and the recordings capture that. It would

-08:-42:-07 **1** require an absolute academy award-winning acting job that  
-08:-42:-07 **2** spanned months of time and hundreds of hours of interaction to  
02:04:52 **3** be faking their conspiratorial actions or words.

-08:-42:-07 **4** You heard from them, and you've heard from the  
02:05:04 **5** people that dealt with them. The government submits that one  
02:05:09 **6** or more -- the notion that one or more of them is just faking it  
02:05:14 **7** is not only unreasonable, but it's preposterous.

02:05:19 **8** As you go through the evidence and as the defense  
-08:-42:-07 **9** attorneys make their arguments, please take the time to ask  
-08:-42:-07 **10** yourselves: Why didn't the defendants simply walk away, stop  
02:05:28 **11** calling or returning calls, refuse to deal with Darren Griffin  
02:05:31 **12** or one of the other coconspirators in this case, like the other  
02:05:36 **13** people you heard about in the recording, and some of the people  
02:05:40 **14** who actually testified here in this courtroom told you? Why  
-08:-42:-07 **15** didn't they run, not walk, away from these videos, these  
-08:-42:-07 **16** statements, and these actions? The evidence shows that others  
02:05:51 **17** did. The reasonable, common-sense conclusion is that they  
02:05:57 **18** intended to commit the crimes for which they are charged.

02:06:02 **19** Now, ladies and gentlemen, the recordings alone  
-08:-42:-07 **20** would be sufficient to prove the defendants' guilt beyond a  
-08:-42:-07 **21** reasonable doubt. But the government has presented more than  
-08:-42:-07 **22** the recordings to you. In fact, we presented witnesses that  
02:06:14 **23** corroborated those recordings. The government presented 15  
02:06:18 **24** witnesses, including Darren Griffin, and each of them provided  
-08:-42:-07 **25** information that prove the defendants' guilt as to those. I'm

02:06:29 **1** going summarize briefly who some of those witnesses are and what  
-08:-42:-07 **2** they said to you.

-08:-42:-07 **3** After you heard from Darren Griffin, you heard from  
02:06:35 **4** Special Agents Coats and Radcliffe who testified about the FBI's  
02:06:38 **5** direction and control of Darren Griffin, and some of the issues  
-08:-42:-07 **6** that they faced -- that is the FBI, Federal Bureau of  
-08:-42:-07 **7** Investigation -- that it faced as they conducted this  
02:06:49 **8** investigation.

-08:-42:-07 **9** You also heard from other witnesses. You heard  
-08:-42:-07 **10** from Jihad Dahabi, whose videotaped deposition we watched.  
02:06:56 **11** You'll recall that El-Hindi took Darren Griffin to his  
02:07:00 **12** accountant, Jihad Dahabi, to establish a new corporation to get  
02:07:04 **13** government grants. The timing of that is very important.  
-08:-42:-07 **14** We'll discuss that later.

02:07:09 **15** You heard Mr. Dahabi say that he was scared by his  
-08:-42:-07 **16** interaction with them. He thought terrorism might be involved,  
-08:-42:-07 **17** and he destroyed the documentation that El-Hindi had requested.  
-08:-42:-07 **18** In fact, he avoided doing any work altogether with Mr. El-Hindi.  
02:07:24 **19** He was so scared by this interaction with them that he lied to  
-08:-42:-07 **20** the FBI when the FBI interviewed him. And this was after only  
-08:-42:-07 **21** a couple hours, or less, of these two men.

02:07:38 **22** Kelly Mount and Mark Whitworth of the FBI both had  
02:07:42 **23** opinion testimony.

-08:-42:-07 **24** Ms. Mount testified the explosive cookbooks that  
-08:-42:-07 **25** were provided by Mr. Amawi to Darren Griffin on a disk describe



-08:-42:-07 **1** the materials needed to make explosives.

-08:-42:-07 **2** Agent Whitworth testified about the bomb vest video

02:07:56 **3** and what would happen if you followed the instructions: You

02:08:00 **4** would make an actual IED or explosive device. He also talked

-08:-42:-07 **5** about the e-mail that was sent by Marwan El-Hindi to Darren

02:08:07 **6** Griffin and that this showed the placement of an IED.

02:08:11 **7** Kelly Doran of the Fifth Third Bank. She

-08:-42:-07 **8** testified about the circumstances when Mohammad Amawi left his

-08:-42:-07 **9** wallet at the bank and never called back for it. No one ever

-08:-42:-07 **10** claimed this wallet after a year. Do you remember what was in

-08:-42:-07 **11** that wallet? Darren Griffin's e-mail; it was on the back of a

-08:-42:-07 **12** card that was in that wallet, along with Darren Griffin's

-08:-42:-07 **13** alleged Kuwaiti contact who, as we all now know, was really an

-08:-42:-07 **14** FBI e-mail account.

-08:-42:-07 **15** You heard from two Toledo police officers. They

02:08:43 **16** testified that they responded to Mr. Amawi's 911 calls, and

02:08:47 **17** Amawi told them he was being followed. This happened just days

-08:-42:-07 **18** before he left that wallet at the bank.

02:08:53 **19** Mikaeil Almozrouei testified to you that he was

02:08:58 **20** Amawi's former neighbor and acquaintance of Marwan El-Hindi.

-08:-42:-07 **21** His testimony is particularly noteworthy. The Judge talked

-08:-42:-07 **22** about it's not necessarily how long a witness testifies or how

-08:-42:-07 **23** many witnesses testify. He testified on a very small sliver of

-08:-42:-07 **24** information, but very important. He saw Mohammad Amawi's

02:09:18 **25** change of demeanor and attitude after his 2003/2004 trip to

02:09:22 **1** Jordan. He testified about how after this Jordan trip Amawi  
02:09:27 **2** showed Almozrouei violent videos. Quite notably, Amawi told  
-08:-42:-07 **3** Mr. Almozrouei that he wanted to martyr himself. After that  
02:09:39 **4** Almozrouei himself, and as an observer of the Islamic faith,  
-08:-42:-07 **5** wanted no part and simply walked away from Mohammad Amawi.  
02:09:49 **6** Almozrouei also told you something very important  
-08:-42:-07 **7** about Marwan El-Hindi. He had worked with him previous in  
02:09:53 **8** Detroit. One day El-Hindi approached him at a Mosque here in  
02:09:57 **9** Toledo and asked Mazloun if he wanted to go train for Jihad in  
02:10:04 **10** Afghanistan. Extremely important. We'll come back to this,  
-08:-42:-07 **11** ladies and gentlemen. Please don't forget it.  
-08:-42:-07 **12** Agent Steven Gubanich of the FBI testified about  
02:10:13 **13** the interview of Mohammad Amawi on the way back from Jordan and  
-08:-42:-07 **14** some of the computer evidence recovered from Mohammad Amawi's  
-08:-42:-07 **15** computer.  
02:10:21 **16** You heard from Special Agent Chuck Holloway of the  
-08:-42:-07 **17** FBI. He testified about Marwan El-Hindi's statement to the FBI  
-08:-42:-07 **18** in February of 2006. Marwan El-Hindi did not tell the truth in  
-08:-42:-07 **19** that interview. And we'll talk a little bit about that as well.  
-08:-42:-07 **20** Joseph Corrigan of the FBI, he showed you the  
-08:-42:-07 **21** original of many of these items of evidence on Amawi's and  
02:10:41 **22** El-Hindi's computer, what they actually possessed on their  
02:10:44 **23** computers, what they saw, and what they accessed on the  
-08:-42:-07 **24** internet, including the bomb vest video. And we'll go through  
02:10:50 **25** that as well.

02:10:52 **1** To the extent that I'm capable of understanding,  
02:10:56 **2** Robert Antoon of the FBI, he testified he translated most of  
-08:-42:-07 **3** these items, provided you a much clearer picture of what some of  
-08:-42:-07 **4** the videos and documents actually meant and some of the things  
-08:-42:-07 **5** that Marwan El-Hindi, for instance, gave to Darren Griffin.  
02:11:12 **6** Finally, Evan Kohlmann testified about several  
02:11:16 **7** Jihad websites that were visited or accessed by the defendant.  
-08:-42:-07 **8** So remember, ladies and gentlemen, the recordings themselves are  
-08:-42:-07 **9** the bulk of the evidence, but please don't forget the testimony  
-08:-42:-07 **10** of these other individuals. They establish corroboration also.  
-08:-42:-07 **11** The Judge charged about how to gauge somebody's credibility.  
02:11:33 **12** One of the things to gauge someone's credibility is whether what  
-08:-42:-07 **13** they told you is corroborated or supported by other testimony of  
-08:-42:-07 **14** other witnesses or other pieces of evidence. You have a lot of  
-08:-42:-07 **15** that evidence in this case. You can ask for it again.  
-08:-42:-07 **16** I'm going to a couple times, over the course of the  
-08:-42:-07 **17** day today, go through very carefully how it is we know certain  
-08:-42:-07 **18** things beyond a reasonable doubt what Darren Griffin said,  
-08:-42:-07 **19** which, by the way, is mostly corroborated by these recordings.  
02:12:01 **20** And beyond what the recordings themselves said, there are other  
-08:-42:-07 **21** small pieces of evidence that corroborate that information, that  
02:12:11 **22** tell you that you can believe it and give you confidence in that  
-08:-42:-07 **23** information. If you have questions about that as you  
02:12:17 **24** deliberate, please ask to see those things.  
02:12:22 **25** I want to say a few words about Darren Griffin

02:12:26 **1** here, although I suspect we'll talk about them a lot more later.

-08:-42:-07 **2** You watched him testify. This man is not an evil genius.

02:12:37 **3** He's neither of those things. He's not evil, and he's not a

02:12:41 **4** genius. The evidence demonstrates that Darren Griffin recorded

02:12:46 **5** hundreds of hours of conversation with many people in many

02:12:50 **6** different situations, and that this case is an outgrowth of only

-08:-42:-07 **7** one of those investigations. The evidence also demonstrates

-08:-42:-07 **8** that Darren Griffin was guided by, supervised, and controlled by

02:13:03 **9** the FBI. He's not an evil genius, and he's not a rogue agent

02:13:08 **10** either.

02:13:09 **11** Again, this is an example of something that is

02:13:12 **12** important. And when you watched him testify the first time,

-08:-42:-07 **13** you hadn't heard from Agent Coats yet. So you listened to all

-08:-42:-07 **14** that testimony, and you listened to all those tapes. And they

-08:-42:-07 **15** don't mean as much to you yet because you have yet to hear the

02:13:25 **16** FBI explain how they were moving Darren Griffin around, and what

02:13:29 **17** the priorities of the FBI were, and what their worries were.

-08:-42:-07 **18** When we go through these tapes, you're going to actually hear

02:13:36 **19** him executing FBI orders and priorities.

02:13:41 **20** What Darren Griffin did here is exactly what you

-08:-42:-07 **21** would want him to do: He collected information on threats to

-08:-42:-07 **22** the United States and its nationals under the authority of the

02:13:53 **23** Federal Bureau of Investigation. Again, I'll comment more

-08:-42:-07 **24** about Darren Griffin as we go through the evidence. Please ask

-08:-42:-07 **25** yourselves how many times you actually hear him executing these

02:14:03 **1** FBI orders.

02:14:07 **2** And as we analyze this evidence, please consider

-08:-42:-07 **3** the testimony of Agent Coats where he described what the FBI had

02:14:16 **4** to do when it was balancing its needs and its concerns in

02:14:21 **5** conducting the investigation. You remember the testimony from

-08:-42:-07 **6** Agent Shannon Coats about the need to gather information and

02:14:29 **7** learn about the existence and connections between people and

-08:-42:-07 **8** their associates while training these men who were interested in

-08:-42:-07 **9** learning the skills of terrorists and violent criminals? Also

02:14:45 **10** remember his testimony about the fact that this case could have

-08:-42:-07 **11** been brought earlier -- and we'll go through that also -- but

-08:-42:-07 **12** the FBI needed to follow up on certain aspects of what they had

-08:-42:-07 **13** learned during the course of this investigation like, and

02:15:01 **14** probably most importantly, Mohammad Amawi's overseas contacts.

02:15:06 **15** If you add this perspective to the common sense you

02:15:10 **16** walked in here with, the way the recordings are set out and the

-08:-42:-07 **17** way the investigation proceeded will be much clearer to you.

-08:-42:-07 **18** Finally, ladies and gentlemen, please pay

-08:-42:-07 **19** particular attention to some of the defendants' statements when

-08:-42:-07 **20** they speak to each other, especially in Arabic, when Darren

02:15:32 **21** Griffin can't understand them. This is the conversation these

02:15:37 **22** coconspirators are having independent of Darren Griffin.

02:15:42 **23** What I'm going to do next is play a series of short

02:15:47 **24** clips. You'll recall the testimony was that Darren Griffin

02:15:51 **25** recorded hundreds of hours of interaction with these defendants.

02:15:57 **1** You'll recall the testimony that the government condensed those  
02:16:02 **2** recordings down into the clips that we played here. We've  
02:16:06 **3** clipped them again. So we're talking about two- and  
02:16:10 **4** three-minute long clips instead of 20- and 30-minute long clips.

02:16:15 **5** THE COURT: Mr. Sofer, I understand the juror on  
02:16:20 **6** the end has static. Apparently it has to do with the  
-08:-42:-07 **7** transmission system or whatever. Why don't you take one of the  
-08:-42:-07 **8** empty chairs and see how that goes. Let us know. And thanks  
-08:-42:-07 **9** for mentioning it.

02:17:01 **10** (Discussion had off the record.)

02:17:02 **11** THE COURT: The board may affect the transmission.

02:17:05 **12** MR. SOFER: This board?

-08:-42:-07 **13** THE COURT: Let's have a test run and see how it  
-08:-42:-07 **14** goes.

-08:-42:-07 **15** Ladies and gentlemen, why don't you put the  
-08:-42:-07 **16** earphones on and see.

02:17:22 **17** THE JUROR: A lot of static.

02:17:38 **18** MR. SOFER: Two things, Judge. Why don't we try  
02:17:42 **19** playing the tapes without the earphones and see if the  
02:17:47 **20** transcripts are good enough for you to go along with. And you  
02:17:50 **21** can hear, I think, a substantial amount of it.

02:17:53 **22** Ladies and gentlemen, I would say other than  
-08:-42:-07 **23** this -- the Judge has already said this to you -- what matters  
-08:-42:-07 **24** is on these recordings. You've heard these recordings; you've  
-08:-42:-07 **25** heard several of them several times. You know whether the

-08:-42:-07 **1** transcripts were accurate or not accurate. That's for you to  
-08:-42:-07 **2** decide. It is the recordings that matter. If you have  
-08:-42:-07 **3** trouble understanding these, we'll figure out a way -- we'll  
-08:-42:-07 **4** take a break and try to figure out a way to get the static out  
-08:-42:-07 **5** of there. Let's see if we can try it without the earphones.

02:18:22 **6** What I wanted to say is this is going to take a  
02:18:25 **7** little time. In fact, it's going to take a lot of time. And  
02:18:28 **8** I still won't be able to go through all the evidence with you.  
02:18:31 **9** Again, I encourage you if you have questions about the evidence,  
-08:-42:-07 **10** something that I have not played, something that the government  
-08:-42:-07 **11** has not selected for summation, please ask for it to listen to  
-08:-42:-07 **12** it again.

02:18:48 **13** Did you say you were not getting static?

02:18:51 **14** THE JUROR: (Witness shakes head.)

02:18:52 **15** THE COURT: Let's --

02:18:54 **16** MR. SOFER: Let's try playing a tape.

-08:-42:-07 **17** THE COURT: Ladies and gentlemen -- John, do you  
02:19:00 **18** think it's the board causing the problem?

-08:-42:-07 **19** THE AUDIO TECHNICIAN: It could be. It's a line  
02:19:07 **20** of sight.

02:19:14 **21** THE COURT: Let's try it without the earphones,  
02:19:18 **22** maybe even the easel itself.

02:19:26 **23** THE JUROR: Why don't you shut the monitor off once  
02:19:32 **24** and see if that helps, if you can?

02:19:49 **25** MR. SOFER: I'd rather have you hear it than use

-08:-42:-07 **1** this big screen. What's an extra couple hundred bucks down the  
02:19:59 **2** drain?  
-08:-42:-07 **3** THE COURT: So let's put the earphones on.  
02:20:05 **4** MR. SOFER: Is that static gone?  
02:20:08 **5** THE JUROR: Yes.  
02:20:10 **6** MR. SOFER: I guess I can put my chart back up.  
02:20:14 **7** What you have here, ladies and gentlemen, it's been  
-08:-42:-07 **8** marked actually Government's Exhibit 216-A. 216-A is a  
-08:-42:-07 **9** timeline. And it doesn't contain everything on it. In fact,  
-08:-42:-07 **10** it's missing all kinds of things, but it contains some of the  
02:20:32 **11** more important events that took place in the case. It's  
-08:-42:-07 **12** designed to give you a little perspective about how two branches  
-08:-42:-07 **13** of this conspiracy came together. That's the most important  
-08:-42:-07 **14** point that I'm going to make as we go through it. But you  
-08:-42:-07 **15** should feel free to look at it, and I'll comment on it every so  
-08:-42:-07 **16** often.  
02:20:52 **17** We're going to go back to -- actually back in June  
02:21:02 **18** of 2004. Now, remember, by this time Darren Griffin testified  
-08:-42:-07 **19** he had already heard both Marwan El-Hindi and Mohammad Amawi say  
-08:-42:-07 **20** some things that were of great concern to him. And, of course,  
02:21:23 **21** made sense as to why it is the FBI would focus their attention  
-08:-42:-07 **22** on these two men. Mohammad Amawi had told him that he had  
02:21:30 **23** tried to go into Iraq and had failed to do it because his family  
02:21:35 **24** had prevented him from going. And Marwan El-Hindi had asked  
-08:-42:-07 **25** him about kidnapping an Israeli soldier and kidnapping a U.S.



02:21:46 **1** politician. Then on 9/11 asked him whether or not -- asked him  
02:21:51 **2** if he knew something. Remember, we're talking about a military  
-08:-42:-07 **3** man here, an ex-military man, if he knew something about how  
-08:-42:-07 **4** brothers were going to get hurt -- this was in the months before  
-08:-42:-07 **5** the Iraq war -- that he should let people know. And Darren  
-08:-42:-07 **6** Griffin's cover was out now, and he had spent quite a bit of  
-08:-42:-07 **7** time with Marwan El-Hindi by June 23 of 2004. So Marwan  
02:22:17 **8** El-Hindi had heard Darren Griffin make all kinds of statements  
-08:-42:-07 **9** about his radical beliefs and what he was about. Which, as you  
02:22:26 **10** know, was cover. Then get this: June 23, 2004, it's a phone  
-08:-42:-07 **11** call from Marwan El-Hindi to Darren Griffin:  
02:22:37 **12** (Audio is played.)  
02:24:10 **13** MR. SOFER: What's important about this call? A  
02:24:12 **14** couple things. First of all, Marwan El-Hindi brings this up  
-08:-42:-07 **15** out of the blue. There's been a lot of statements from some of  
-08:-42:-07 **16** the defense attorneys about how Darren Griffin brought things up  
-08:-42:-07 **17** out of the blue. But here Marwan El-Hindi brings this up out  
-08:-42:-07 **18** of the blue. He's got two brothers he wants to train. And  
02:24:28 **19** the other thing he says is they have a lot of energy. I'd  
02:24:32 **20** submit to you, ladies and gentlemen, the government submits that  
02:24:34 **21** having a lot of energy is consistent with Jihad, which we'll  
-08:-42:-07 **22** discuss in a few moments, and not VIP Security in this context.  
02:24:46 **23** I'll go through with you now in detail why that's  
02:24:50 **24** true and why that's the reasonable, common-sense inference that  
02:24:55 **25** you should make from this particular call. Although, there is a

-08:-42:-07 **1** lot more evidence that shows later on in the case and when  
-08:-42:-07 **2** Marwan El-Hindi introduced these two men to Darren Griffin, it  
-08:-42:-07 **3** was for the purpose of getting them trained for Jihad, properly  
-08:-42:-07 **4** trained for Jihad, which is a theme that we see over and over in  
-08:-42:-07 **5** this case: To be properly trained for Jihad is better than to  
-08:-42:-07 **6** just go over and get yourself killed.

02:25:23 **7** We'll start with the police report, which was  
02:25:27 **8** filed -- by the way, this conversation we just played happened  
-08:-42:-07 **9** on June 23, 2004. Marwan El-Hindi had come home from Egypt on  
02:25:37 **10** June 15, 2004, where he had gone to rescue --

02:25:45 **11** THE JUROR: Wait a minute. That thing's on.

02:25:48 **12** MR. SOFER: Since we're not playing the tapes,  
02:25:50 **13** we'll try -- we'll put it on what you can't see on your  
02:25:56 **14** monitors.

02:26:01 **15** There is the police report. Can you see it on  
-08:-42:-07 **16** there? What I was saying was Marwan El-Hindi had returned from  
02:26:11 **17** Egypt on June 23, just a few days before this conversation where  
-08:-42:-07 **18** he had gone to "rescue", and I put "rescue" in quotes, Zubair  
-08:-42:-07 **19** and Khaleel Ahmed. By the way, they're referred to as boys  
-08:-42:-07 **20** throughout this case, but are really men. They're 23 years old  
-08:-42:-07 **21** or more.

02:26:31 **22** Now, what's in this police report? Here are the  
-08:-42:-07 **23** important things. They're highlighted on here. On May 21,  
-08:-42:-07 **24** 2004, this report is made. It's made by the mother of Zubair  
-08:-42:-07 **25** Ahmed. And she's actually gone to the police department in

02:26:48 **1** Chicago to report her son missing. And what does it say the  
-08:-42:-07 **2** reason is? The police report has a spot for unusual mental  
-08:-42:-07 **3** state. I'd hate to see what they would put for me there, but  
-08:-42:-07 **4** for him they put: "Disturbed over the war."  
02:27:10 **5** Let's go to rest of this document. It was made by  
-08:-42:-07 **6** his mother, who signed it, again, on May 22. Let's go to the  
-08:-42:-07 **7** next slide.  
02:27:33 **8** Here's what the police officer put down. I think  
02:27:37 **9** we have this blown up. "CP" stands for complainant.  
02:27:44 **10** Complainant's missing, mother is very concerned about her  
-08:-42:-07 **11** missing son who has voiced his opinion about the war and what  
-08:-42:-07 **12** his people are going through. Family has made attempt to  
02:27:53 **13** inform the FBI with their concern. They believe the missing  
-08:-42:-07 **14** has intentions of getting involved in some fashion. Subject  
-08:-42:-07 **15** could be with Khaleel Ahmed.  
02:28:07 **16** Let's go to the next slide.  
-08:-42:-07 **17** Here's the stipulation. Again, what I'm going to  
-08:-42:-07 **18** do with this piece of evidence and series of evidence is go  
-08:-42:-07 **19** through everything. I'm not going to do this with all the  
-08:-42:-07 **20** evidence in this case. We'd be here way too long. Here's a  
-08:-42:-07 **21** stipulation of fact that has been entered into by the parties in  
-08:-42:-07 **22** case.  
-08:-42:-07 **23** It says: Defendant Marwan El-Hindi knew that the  
02:28:27 **24** parents of Zubair Ahmed thought Zubair and Khaleel Ahmed  
02:28:31 **25** traveled to Cairo, Egypt, for the purpose of joining and

-08:-42:-07 **1** engaging in violent Jihad against the United States military  
-08:-42:-07 **2** forces in Iraq or Afghanistan. Marwan El-Hindi traveled to  
02:28:41 **3** Cairo on May 25, 2004, with and at the request of Zubair Ahmed's  
-08:-42:-07 **4** father, Mohammad Ahmed, in order to retrieve Zubair Ahmed and  
-08:-42:-07 **5** Khaleel Ahmed from Egypt before they were able to engage in  
-08:-42:-07 **6** violent Jihad. Marwan El-Hindi's brother, Yousef El-Hindi, met  
02:28:57 **7** Defendant Marwan El-Hindi and Mohammad Ahmed in Cairo. The  
-08:-42:-07 **8** travel-related expenses of Marwan El-Hindi and Yousef El-Hindi  
-08:-42:-07 **9** were paid for by Mohammad El-Hindi [sic]. Mohammad Ahmed,  
02:29:09 **10** Zubair Ahmed, and Khaleel Ahmed returned to the United States on  
-08:-42:-07 **11** or about June 2, 2004. Marwan El-Hindi returned to the United  
-08:-42:-07 **12** States on or about June 15, 2004.

02:29:22 **13** MR. HARTMAN: It's Mohammad Ahmed. You said  
02:29:27 **14** Mohammad El-Hindi.

02:29:28 **15** MR. SOFER: I misread the stipulation. I  
-08:-42:-07 **16** apologize.

02:29:37 **17** Again, taking you through this in a painstaking  
-08:-42:-07 **18** way, because this is how you can analyze the evidence in the  
-08:-42:-07 **19** case, for this and many other things.

02:29:46 **20** This shows Marwan El-Hindi's ticket from Chicago to  
02:29:53 **21** Amsterdam, and it looks like it was on May 25.

02:29:59 **22** Next exhibit, please.

02:30:02 **23** Here's a baggage claim ticket that shows that he  
02:30:05 **24** went from Amsterdam -- you can see at the bottom of what's in  
-08:-42:-07 **25** red -- to Cairo. He went on the 25th to the 26th. That's 193

02:30:20 **1** now.

-08:-42:-07 **2** Here's Marwan El-Hindi's computer. And pictures

-08:-42:-07 **3** were found on this computer when it was searched by the FBI

02:30:29 **4** after the case was over. Counsel has stipulated that this came

-08:-42:-07 **5** from Marwan El-Hindi's home on Suder Avenue.

-08:-42:-07 **6** And here are the photographs. Now, again, what's

02:30:43 **7** he saying there? He's saying: These are my guys. That's

-08:-42:-07 **8** going to be important in a little bit.

02:30:54 **9** These are other pictures taken in Cairo. What you

-08:-42:-07 **10** can see there -- and Darren Griffin identified all these

-08:-42:-07 **11** people -- it is from left to right on the screen: Khaleel

02:31:04 **12** Ahmed, Marwan El-Hindi, Yousef El-Hindi, Mohammad Ahmed and

02:31:09 **13** Zubair Ahmed.

02:31:16 **14** Here's Zubair's passport. We're going to zoom in

-08:-42:-07 **15** on it so you can see the actual travel. You can see on June 2,

-08:-42:-07 **16** admitted to Chicago, which was coming back.

-08:-42:-07 **17** Next.

02:31:39 **18** And here's the outbound -- I'm sorry, this is

-08:-42:-07 **19** Khaleel's passport. And here's his inbound. Again, all of

-08:-42:-07 **20** these little pieces of evidence construct the way that these men

02:31:56 **21** travelled, how they travelled, when they went, where they went.

02:32:04 **22** Okay. These are further records about Marwan

-08:-42:-07 **23** El-Hindi. And what does this show?

02:32:12 **24** Can we blow this up a little bit?

-08:-42:-07 **25** You can see that there was a wire transfer made to

02:32:16 **1** him of \$10,000 from Mohammad Ahmed. And later there was  
-08:-42:-07 **2** another wire transfer for \$8,000.

02:32:39 **3** Continue.

-08:-42:-07 **4** These are records that were found in the trash from  
-08:-42:-07 **5** Marwan El-Hindi's ex-wife. And she threw out records that

02:32:52 **6** contained Marwan's previous travel back and forth to Egypt.

02:32:56 **7** And you can see here --

-08:-42:-07 **8** I think we can blow this up a little bit.

02:33:00 **9** Again, you can see here the outbound and inbound

02:33:03 **10** flights. This is the actual inbound flight. And again, a

-08:-42:-07 **11** boarding ticket that was found, a boarding pass stub that was

-08:-42:-07 **12** found, which also supports this.

02:33:22 **13** Next.

02:33:28 **14** Now, Marwan El-Hindi knows when he introduces these

02:33:32 **15** two men to Darren Griffin why it was that they went to Egypt.

-08:-42:-07 **16** And that's what this next conversation showed. This takes

-08:-42:-07 **17** place on July 15, 2004, at Marwan El-Hindi's home.

02:34:04 **18** (Audio is played.)

02:34:58 **19** MR. SOFER: So what does Marwan El-Hindi know about

-08:-42:-07 **20** these two men? These two men left the United States to go kill

-08:-42:-07 **21** the troops in a country that they are citizens of. And Marwan

-08:-42:-07 **22** El-Hindi introduces them to Darren Griffin. Why does Marwan

02:35:12 **23** El-Hindi introduce them to Darren Griffin? To be VIP Security

-08:-42:-07 **24** guards? It doesn't make any sense. He introduces them

-08:-42:-07 **25** because Darren Griffin's been telling him for some time that

-08:-42:-07 **1** he's interested in training people for Jihad. Now he found two  
-08:-42:-07 **2** people. That's what he meant by they had a lot of energy.

02:35:31 **3** Also, it's important in that conversation what's  
-08:-42:-07 **4** really happening -- and this happens again; it's a theme  
-08:-42:-07 **5** throughout the case is that they're stupid. Of course they're  
-08:-42:-07 **6** stupid for doing this. But they're stupid because they're not  
02:35:48 **7** properly trained. That's what is said in that conversation.

02:35:57 **8** Now, he also says that the brother wants to meet  
-08:-42:-07 **9** you very bad. And how does Zubair or Khaleel, why do they want  
-08:-42:-07 **10** to meet Darren Griffin really bad? It's because Marwan must  
-08:-42:-07 **11** have talked to them already. He must have told them about this  
-08:-42:-07 **12** man that he has who's giving Jihad training who's an ex Special  
02:36:25 **13** Forces soldier. Not someone who does VIP training, not someone  
-08:-42:-07 **14** who does security work.

02:36:30 **15** Remember this is only four weeks after these  
02:36:33 **16** individuals came home from trying to kill American soldiers in  
02:36:37 **17** Afghanistan. Four weeks. Only two weeks after Marwan  
-08:-42:-07 **18** El-Hindi had come home from rescuing them. Again, now you know  
-08:-42:-07 **19** what he means when he says they have a lot of energy.

02:36:53 **20** Now, again, I'm not going to break down every  
-08:-42:-07 **21** recording and every piece of evidence this way. I encourage  
-08:-42:-07 **22** you, once again, if you have any questions or any issues or  
02:37:02 **23** you're looking for further evidence, please ask for it. You  
-08:-42:-07 **24** can ask for it via a note to the Judge.

02:37:08 **25** What happens next? As we all know, Marwan

02:37:12 **1** El-Hindi brings both Zubair and Khaleel Ahmed to a conference,  
-08:-42:-07 **2** to the Islamic Circle of North America conference here in Ohio,  
02:37:20 **3** in Cleveland. We're going to play the next tape.

02:38:37 **4** (Audio is played.)

02:38:37 **5** MR. SOFER: Again, this is what I was referring to  
-08:-42:-07 **6** before. Very important. They want to meet him very bad.

-08:-42:-07 **7** They must have talked to him about him. Also, he says, they'll

-08:-42:-07 **8** help you in the table. So Marwan El-Hindi has the ability to

-08:-42:-07 **9** move these two younger people around. They're probably 20

02:38:56 **10** years younger than he, and look what he's doing with them.

02:38:59 **11** He's introducing them to Darren Griffin, a Jihad trainer, in

-08:-42:-07 **12** Cleveland, or at least that's what they're talking about doing

02:39:08 **13** next. And, in fact, they do meet him. And the next tape

02:39:12 **14** shows that.

02:39:16 **15** (Video is played.)

02:39:31 **16** MR. SOFER: This goes back to your common sense and

-08:-42:-07 **17** what's reasonable and not reasonable. This is not a science.

-08:-42:-07 **18** Your common sense. Do you need to run around with a .50

-08:-42:-07 **19** caliber weapon? You heard testimony about how big a .50 caliber

-08:-42:-07 **20** weapon is, how heavy it is, what it does. You don't need this

-08:-42:-07 **21** for VIP Security. VIP Security guards wear nice suits; they

-08:-42:-07 **22** walk around with famous people. They don't walk around with

-08:-42:-07 **23** giant weapons of war. It doesn't make any sense whatsoever.

02:40:02 **24** Continue.

02:40:33 **25** (Audio is played.)



02:40:33 **1** MR. SOFER: Again, common sense. They speak by  
02:40:37 **2** encrypted e-mails. Why do you have to speak by encrypted  
-08:-42:-07 **3** e-mails if anything you're talking about is remotely legitimate?  
02:40:46 **4** And why, ladies and gentlemen, is he able to talk so freely with  
02:40:49 **5** Marwan El-Hindi during this conversation -- I'm sorry, with  
02:40:52 **6** Darren Griffin during this conversation? Why is that? He's  
-08:-42:-07 **7** already talked to Marwan. Marwan's explained to him who this  
-08:-42:-07 **8** guy is and what he does. That is the only explanation for why  
02:41:02 **9** it is they have this kind of conversation.

02:41:05 **10** Let's continue.

-08:-42:-07 **11** (Video is played.)

02:41:34 **12** MR. SOFER: Again, this is a theme throughout this  
-08:-42:-07 **13** case. What is the logical inference that you can make that all  
-08:-42:-07 **14** of these defendants are so nervous about whether someone's  
-08:-42:-07 **15** watching them, listening to them? This man is saying he just  
-08:-42:-07 **16** got back from a trip, again, in which he tried to kill our  
-08:-42:-07 **17** soldiers. That's why he's worried about it. And why is he so  
-08:-42:-07 **18** willing to talk to Darren Griffin about it? Because Marwan  
02:42:02 **19** El-Hindi has told him who this man Darren Griffin is.

02:42:05 **20** Continue.

02:42:15 **21** (Video is played.)

02:42:23 **22** MR. SOFER: Now, again, the FBI's strategy here has  
-08:-42:-07 **23** paid off. They put Darren Griffin out there. He puts out his  
02:42:31 **24** cover. He spends a lot of time with Marwan El-Hindi first  
-08:-42:-07 **25** because Marwan El-Hindi is with other people that are of

02:42:39 **1** interest to the FBI. But what does Marwan El-Hindi do? He  
02:42:43 **2** brings two people who are a threat to this country to Darren  
-08:-42:-07 **3** Griffin and thus to the FBI. But for the fact that Darren  
-08:-42:-07 **4** Griffin's cover hadn't gotten out there, but for the fact that  
02:42:55 **5** Marwan El-Hindi had not trusted Darren Griffin, but for the fact  
02:42:59 **6** that Marwan El-Hindi had not trusted Darren Griffin to bring him  
02:43:03 **7** someone, two people who had just tried to kill our troops, these  
-08:-42:-07 **8** men may never ever have been known to the FBI at all. And  
-08:-42:-07 **9** again, what you're seeing is the effective use of what has been  
-08:-42:-07 **10** described by the FBI to you as a human source for collecting  
02:43:25 **11** information.  
02:43:28 **12** Let's continue.  
02:43:29 **13** (Video is played.)  
02:44:34 **14** MR. SOFER: "We're trying to do this long-term."  
-08:-42:-07 **15** "We're trying to do this long-term." This is a theme  
-08:-42:-07 **16** throughout this case also. Again, what they had just done,  
-08:-42:-07 **17** like Mohammad Amawi, is made a quick, perhaps rash, move to get  
-08:-42:-07 **18** on to the fields of Jihad. They now accepted the notion that  
-08:-42:-07 **19** they have to have a longer term plan. He discusses this  
-08:-42:-07 **20** throughout this entire meeting of what their longer term plan  
02:45:05 **21** is. In fact, he eventually calls it a five-year plan, if you  
-08:-42:-07 **22** remember some of the evidence that was presented. And that's  
-08:-42:-07 **23** what Darren Griffin can do for these men. And that's why these  
-08:-42:-07 **24** men latch on to him. He's a resource for them. He's a  
-08:-42:-07 **25** resource to get that long-term training that they need so that

-08:-42:-07 **1** when they go to do Jihad, when they go to kill people overseas,  
02:45:29 **2** they'll do it effectively and not just get themselves killed,  
-08:-42:-07 **3** or, another term that gets used often, just be another mouth to  
02:45:38 **4** feed.  
02:45:46 **5** Let's finish it out. Let do the next one. This  
02:45:51 **6** is still at the conference.  
02:45:53 **7** (Video is played.)  
02:46:03 **8** MR. SOFER: I don't know about you, but I don't  
-08:-42:-07 **9** want to go to this pediatrician. And again, why is he so  
02:46:11 **10** willing to discuss these matters with Darren Griffin? And the  
-08:-42:-07 **11** government submits to you that the reason is, the reason he's  
02:46:19 **12** comfortable is Marwan, who he trusts, certainly to some extent,  
02:46:24 **13** has told him this guy's okay.  
02:46:36 **14** (Video is played.)  
-08:-42:-07 **15** MR. SOFER: Okay. They continue to talk at the  
02:46:41 **16** conference. And we'll play another short clip.  
02:46:53 **17** (Video played.)  
-08:-42:-07 **18** MR. SOFER: I missed it, but I'm sure you saw it.  
-08:-42:-07 **19** There's been some things made of when Marwan El-Hindi was there  
-08:-42:-07 **20** and when Marwan El-Hindi wasn't there. He's there now. If  
-08:-42:-07 **21** you listen to the rest of this conversation, there's no real  
02:47:07 **22** ambiguity about what's going on here. Among other things,  
-08:-42:-07 **23** they're talking about sniping. You don't snipe in security  
-08:-42:-07 **24** guard work. This is true in other instances where Marwan  
02:47:19 **25** El-Hindi is with one or more of the defendants or with Darren

02:47:22 **1** Griffin. He may not be there all the time, but he's there  
-08:-42:-07 **2** enough for it to matter.  
-08:-42:-07 **3** Let's continue.  
02:47:37 **4** (Video is played.)  
-08:-42:-07 **5** MR. SOFER: There are five little points here.  
02:47:41 **6** Again, I could sit here for a very long time -- I'll try not to  
-08:-42:-07 **7** do that -- and point out each little one, but ultimately it's  
02:47:49 **8** your common sense and your reason that the government has to  
-08:-42:-07 **9** rely on here. When he says: We have to get together with  
-08:-42:-07 **10** these guys, we have to get together with these guys, it shows a  
-08:-42:-07 **11** connection, an agreement, a willful entry into an agreement.  
-08:-42:-07 **12** These are the kinds of things that you should be analyzing when  
02:48:13 **13** you're trying to put the facts together with the law as the  
-08:-42:-07 **14** Judge has given it to you.  
02:48:18 **15** And he's about to say -- you can see it on the  
-08:-42:-07 **16** screen here -- if he hasn't already, "I love this guy, man."  
-08:-42:-07 **17** And that's because Darren Griffin's talking to him about all  
-08:-42:-07 **18** kinds of interesting military-type training that he can give to  
02:48:33 **19** them. And again, they need a resource.  
02:48:36 **20** Let's continue.  
02:49:52 **21** (Video is played.)  
-08:-42:-07 **22** MR. SOFER: Look at the glee that the men take in  
-08:-42:-07 **23** the notion that they can kill someone from a mile away and not  
-08:-42:-07 **24** give up their position. And again, this sounds a lot like  
-08:-42:-07 **25** Mohammad Amawi, who loves the standoff weapons, loves them. If

-08:-42:-07 **1** he can learn how to come back another day, do more damage,  
-08:-42:-07 **2** that's what he wants to learn. That's what they're talking  
02:50:15 **3** about here. You don't need a .50 caliber sniper rifle from a  
-08:-42:-07 **4** mile away to do VIP Security.  
-08:-42:-07 **5** Let's continue.  
02:50:47 **6** (Video is played.)  
-08:-42:-07 **7** MR. SOFER: Let's continue the last one from this  
-08:-42:-07 **8** that we selected. Again, ladies and gentlemen, you saw longer  
-08:-42:-07 **9** clips of this, and again, if you have questions, please ask to  
02:50:59 **10** see the whole thing again.  
02:51:01 **11** Let's continue.  
02:51:07 **12** (Video is played.)  
02:51:32 **13** MR. SOFER: I don't know if you caught it. There,  
-08:-42:-07 **14** look at this again. These are little points, ladies and  
-08:-42:-07 **15** gentlemen, but this is how you evaluate evidence, and these men  
02:51:45 **16** have a relationship already. Remember, Marwan El-Hindi just  
-08:-42:-07 **17** went to go pick them up in Egypt. And he brought them back and  
-08:-42:-07 **18** is introducing them to a Jihad trainer. And Khaleel trusts  
-08:-42:-07 **19** him. Khaleel touches him. They have a trust already.  
-08:-42:-07 **20** There's a connection between them already.  
-08:-42:-07 **21** Let's continue.  
02:52:19 **22** (Video is played.)  
02:52:21 **23** MR. SOFER: As I told you before, forming the  
-08:-42:-07 **24** group. Again, is this the smoking gun? No. Is it a piece  
-08:-42:-07 **25** of evidence you should be looking at in deciding whether or not

02:52:33 **1** there's a formation of a conspiracy? Absolutely. Another  
-08:-42:-07 **2** thing, it's clear that Khaleel and Zubair are not angry with  
02:52:41 **3** Marwan El-Hindi. They're not angry that he somehow went over  
-08:-42:-07 **4** there with their father and brought them back here, intercepted  
-08:-42:-07 **5** them, something that got Marwan El-Hindi paid \$10,000. He's  
02:52:55 **6** not angry. The reason he's not angry is Marwan's doing  
-08:-42:-07 **7** something for him. He's channeling him to something smarter  
-08:-42:-07 **8** and better. Not VIP Security; better tactics, better weapons  
-08:-42:-07 **9** training. It's a way that he can be better at what he  
02:53:11 **10** ultimately wants to do.

02:53:13 **11** Continue, please.

02:53:30 **12** (Video is played.)

-08:-42:-07 **13** MR. SOFER: Again, I'll try not to do this with  
02:53:35 **14** every one of these, but these are incredibly important things.  
-08:-42:-07 **15** Some people have no patience. You don't say some people  
02:53:42 **16** shouldn't go out and plan on killing soldiers or going overseas  
-08:-42:-07 **17** to kill Americans. They should have -- some people don't have  
-08:-42:-07 **18** patience. Again, it's a question of what it is; not what it is  
02:53:57 **19** they're going to do, it's how it is they're going to do it.

02:54:06 **20** (Video is played.)

02:54:19 **21** MR. SOFER: I think that speaks for itself.

02:54:22 **22** Okay. Now, and again, this is what this timeline

02:54:29 **23** in part sets up for you to see. As the timeline with El-Hindi,

02:54:35 **24** Khaleel, and Zubair continues; Darren Griffin is doing what the

-08:-42:-07 **25** FBI has asked him to do, which is work on other matters as well.

-08:-42:-07 **1** And one of the other matters he's working on relates to Mohammad  
-08:-42:-07 **2** Amawi. Again, on 6/25/04 there was testimony from Darren  
-08:-42:-07 **3** Griffin that Mohammad Amawi told a group of people that he  
02:54:55 **4** attempted to cross the border into Iraq to join Jihad against  
-08:-42:-07 **5** the U.S. and other occupying forces. His family found out,  
02:55:02 **6** took all his money out of the bank, requested Jordanian border  
02:55:07 **7** officials to return him. And he told the group he's going to  
-08:-42:-07 **8** get money and join the Jihad in Iraq.

02:55:14 **9** Now, let's go back to that time. Again, this is  
-08:-42:-07 **10** going back to the Mohammad Amawi radicalization, if you will.

02:55:22 **11** Let's go to the first exhibit. Here's Mohammad Amawi's  
02:55:31 **12** passport. It shows the following things. Let's go through  
02:55:34 **13** them.

02:55:36 **14** You can see his outbound out of the United States,  
-08:-42:-07 **15** and I don't know if you can read it. We may have blown this up.  
-08:-42:-07 **16** I don't recall. Look really carefully. It says the Heshamite  
02:55:50 **17** Kingdom of -- I believe it says Jordan there. And QAIA at the  
02:55:56 **18** bottom. October 21, 2003.

-08:-42:-07 **19** Next.

-08:-42:-07 **20** This is his inbound. He returns in March of '04.

-08:-42:-07 **21** What happens to Mohammad Amawi when he's over in Jordan on this  
-08:-42:-07 **22** trip? This is a picture of him before he left when he was  
02:56:16 **23** operating a taxi cab. This is a picture when he returned.

02:56:21 **24** Again, ladies and gentlemen, the case is not about people's  
-08:-42:-07 **25** religious beliefs. That's not why these pictures are being

-08:-42:-07 **1** shown to you. But something has obviously changed with Mohammad  
-08:-42:-07 **2** Amawi here.

02:56:32 **3** Let's continue. Before you play this, again, this  
-08:-42:-07 **4** is not the only person who noticed a change in Mohammad Amawi.  
-08:-42:-07 **5** You heard Mikaeil Almozrouei testify he noticed this change  
-08:-42:-07 **6** after Mohammad Amawi came home. Amawi told him he wanted to  
-08:-42:-07 **7** become a martyr. Almozrouei stopped hanging out with Amawi  
-08:-42:-07 **8** again because he was uncomfortable. He walked away. He  
02:56:59 **9** didn't run; he just walked away.

02:57:03 **10** This is June 30, 2004, not long after these  
02:57:07 **11** statements were made. By the way, something to think about,  
-08:-42:-07 **12** there was testimony that there was no recording, for instance,  
-08:-42:-07 **13** from Darren Griffin about when Mohammad Amawi -- or there was a  
02:57:20 **14** recording, but we couldn't hear it on the recording. Either  
-08:-42:-07 **15** way, I don't recall the exact testimony, but the notion that  
-08:-42:-07 **16** Mohammad Amawi made these statements about having tried to get  
-08:-42:-07 **17** into Iraq. And Darren Griffin's testimony about that is  
02:57:34 **18** corroborated by the fact that he actually does say that on tape  
-08:-42:-07 **19** later on. In other words, this is not a figment of Darren  
-08:-42:-07 **20** Griffin's imagination; it's supported by the other evidence in  
-08:-42:-07 **21** the case.

-08:-42:-07 **22** Let's continue.

02:58:08 **23** (Audio is played.)

02:59:27 **24** MR. SOFER: Now, in this conversation Mohammad  
02:59:29 **25** Amawi is describing an argument or a debate he had with one of



-08:-42:-07 **1** his neighbors about Jihad and the meaning of Jihad. There's a  
-08:-42:-07 **2** lot of that in this case. There's a lot of discussion about  
-08:-42:-07 **3** Jihad altogether. I would submit to you, ladies and gentlemen,  
02:59:40 **4** again, use your common sense and your reason. There's no, no  
-08:-42:-07 **5** question what these men mean when they talk about Jihad.  
02:59:49 **6** Now, here he talks about having trouble with his  
-08:-42:-07 **7** family. This is not the car business issue that Zaki Amawi,  
02:59:58 **8** his father, testified to here. This is -- it's clear, ladies  
-08:-42:-07 **9** and gentlemen, from listening to this candid moment with  
03:00:05 **10** Mohammad Amawi and Darren Griffin that you can't believe much of  
-08:-42:-07 **11** what Zaki Amawi had to say here about this. He said, My father  
-08:-42:-07 **12** tried -- my family tried to stop me. I submit to you, ladies  
-08:-42:-07 **13** and gentlemen, if you compare this to the testimony of Zaki  
-08:-42:-07 **14** Amawi, there's only one conclusion that you can draw.  
03:00:24 **15** Mohammad Amawi said he wanted to go to Iraq.  
-08:-42:-07 **16** That's enough reason alone for the FBI and Darren Griffin to  
-08:-42:-07 **17** continue their work in trying to find out what is this guy  
-08:-42:-07 **18** about, what is he capable of doing, and what does he really want  
-08:-42:-07 **19** to do.  
03:00:45 **20** This conversation continued.  
03:01:20 **21** (Audio is played.)  
03:02:16 **22** MR. SOFER: Same concept as Zubair and Khaleel.  
-08:-42:-07 **23** He's talked to people. He's talked about his philosophy about  
-08:-42:-07 **24** Jihad. To go over there and get killed right away, you have a  
-08:-42:-07 **25** gun, you run into a tank, they kill you. What good is it?

-08:-42:-07 **1** It's just killing yourself. To really do it right you have to  
03:02:37 **2** be trained. That's what Darren Griffin can do for him. It's  
-08:-42:-07 **3** the same revelation that Zubair and Khaleel had, that just going  
03:02:44 **4** and getting yourself killed isn't good enough. And again,  
-08:-42:-07 **5** ladies and gentlemen, right there, having heard that  
03:02:55 **6** conversation, common sense and reason tell you that the FBI  
03:02:59 **7** should continue to investigate what this man is capable of. He  
-08:-42:-07 **8** says: If I had the money, I would go right now. So he's got  
03:03:09 **9** an "if" in there, but we'll discuss about the conspiracy  
03:03:15 **10** statute. The conspiracy statute does not require that you  
03:03:18 **11** actually get there. And this is a very important point.  
03:03:24 **12** Okay. Let me just stop for one second here and  
-08:-42:-07 **13** show you where we are on the timeline. We're up around July,  
-08:-42:-07 **14** we're about to go to July of '04. So you can see now the  
-08:-42:-07 **15** separate tracks or branches of this conspiracy have started.  
-08:-42:-07 **16** And a lot of what we're going to talk about this morning, and  
-08:-42:-07 **17** some of what we'll talk about in the early afternoon are how  
03:03:53 **18** these two branches continue until they finally met in February  
03:03:57 **19** of 2005.  
03:04:03 **20** Let's go to the next. We're going to go to July  
03:04:06 **21** 15, 2004 now.  
-08:-42:-07 **22** We're back to Marwan El-Hindi. Remember, Darren  
-08:-42:-07 **23** Griffin's working on other cases as well. It's not all he's  
-08:-42:-07 **24** doing.  
03:04:58 **25** (Audio is played.)

03:04:58 **1** MR. SOFER: Marwan El-Hindi trusts Darren Griffin,  
-08:-42:-07 **2** that he's going to do this right; he's going to do it carefully.  
-08:-42:-07 **3** It's a security question as much as it is a confidence question.  
03:05:08 **4** Let's continue.  
03:05:11 **5** (Audio is played.)  
03:06:26 **6** MR. SOFER: Again, common sense and logic, ladies  
03:06:30 **7** and gentlemen. He's telling them to be careful. All the way  
-08:-42:-07 **8** back in July of '04 you have -- that's what that dotted line  
03:06:39 **9** represents on the timeline. Marwan El-Hindi has now learned  
-08:-42:-07 **10** that Darren Griffin is working with Mohammad Amawi or is at  
-08:-42:-07 **11** least potentially going to train Mohammad Amawi. And what else  
-08:-42:-07 **12** does he know? Mohammad Amawi tried to get into Iraq. Now,  
-08:-42:-07 **13** use your common sense and reason. It wasn't to do the car  
-08:-42:-07 **14** business. The war was on here. It's not a place to sell  
-08:-42:-07 **15** cars. It's clear from the context of the other conversations  
-08:-42:-07 **16** what this is about.  
03:07:11 **17** Let's go to the next.  
-08:-42:-07 **18** The next one is from October 2, 2004. And it's a  
-08:-42:-07 **19** phone call between Darren Griffin and Marwan El-Hindi. So  
03:09:08 **20** Zubair gave Marwan El-Hindi a list of questions for Darren  
03:09:12 **21** Griffin, and he must have talked to him also because he said: I  
-08:-42:-07 **22** think he remembers the questions. And that is followed up on by  
03:09:18 **23** Darren Griffin on October 5 of 2004 with Marwan El-Hindi.  
03:10:13 **24** (Audio is played.)  
03:10:29 **25** MR. SOFER: And Darren Griffin tells Marwan

-08:-42:-07 **1** El-Hindi, I don't think those questions should be laying around,  
-08:-42:-07 **2** for one. Marwan doesn't say: What questions? What are you  
-08:-42:-07 **3** talking about? He says the FBI never found those questions.  
-08:-42:-07 **4** I'd submit to you that one reasonable explanation of where they  
-08:-42:-07 **5** went is Marwan El-Hindi destroyed them.  
03:10:50 **6** Let's play the next tape. An October 8 meeting  
03:10:56 **7** between Darren Griffin and Marwan El-Hindi's -- Marwan El-Hindi  
-08:-42:-07 **8** at Marwan El-Hindi's home.  
03:11:30 **9** (Audio is played.)  
-08:-42:-07 **10** MR. SOFER: The first thing. What's Marwan  
-08:-42:-07 **11** El-Hindi say about these guys? Not that they shouldn't do  
03:11:37 **12** Jihad -- and he's going to talk about it more here again -- but  
-08:-42:-07 **13** that they can't really effect things, they can't do it right  
03:11:46 **14** unless they learn more. They're not trained, they don't know  
03:11:50 **15** the country, they don't know the culture. They need more to be  
-08:-42:-07 **16** able to effectively do what it is that they want to do. And  
-08:-42:-07 **17** Darren Griffin's about to tell them: Look, this is not about  
03:12:02 **18** candy and flags. These are the previous business ideas that  
-08:-42:-07 **19** Darren Griffin and Marwan El-Hindi discussed. I think that was  
-08:-42:-07 **20** his testimony. This isn't candy and flags. Eventually I think  
-08:-42:-07 **21** he says here: This could take us away from our kids. Well,  
03:12:23 **22** what's he talking about when he said "take us away from our  
-08:-42:-07 **23** kids?" He's talking about jail, ladies and gentlemen. That's  
-08:-42:-07 **24** what the government would submit this means.  
03:12:32 **25** Let's continue.

03:12:51 **1** (Audio is played.)

03:13:14 **2** MR. SOFER: Again, ladies and gentlemen, I trust

-08:-42:-07 **3** him because they're good people. The way he says that is as

03:13:21 **4** important as what he says.

03:13:24 **5** Let's continue.

03:13:30 **6** (Audio is played.)

03:13:43 **7** MR. SOFER: This, again, is a conversation that

-08:-42:-07 **8** much has been made out of. Common sense and reason, Darren

-08:-42:-07 **9** Griffin is complaining to Marwan El-Hindi about Darren Griffin's

03:13:54 **10** security. You've told them about me. I don't know if you

03:13:58 **11** trust them or not. He says they're good guys. What does

03:14:03 **12** Marwan El-Hindi say? Not that we'll train them for Jihad, but

03:14:07 **13** to protect your home, blah, blah, blah. He's protecting Darren

-08:-42:-07 **14** Griffin. He's telling Darren Griffin: Don't worry, we won't

-08:-42:-07 **15** get taken away from our kids; we won't go to jail; just tell

-08:-42:-07 **16** them we're training them not for Jihad, blah, blah, blah.

03:14:21 **17** Again, use your common sense, your everyday interaction with

-08:-42:-07 **18** your family, your friends, other people. You can recognize

03:14:29 **19** what's actually going on. Do not be distracted from that.

-08:-42:-07 **20** Make sure that you use your own life experience in analyzing

03:14:36 **21** what's being said.

03:14:45 **22** One thing I want to make clear is that the

03:14:50 **23** indictment or charges here do not include a charge that these

03:14:55 **24** defendants were trained. Trained is not what they're being

-08:-42:-07 **25** charged with. They're charged with conspiring; not being

03:15:03 **1** trained. The part of the conspiracy is that they were seeking  
-08:-42:-07 **2** training. But the fact that they actually received training is  
-08:-42:-07 **3** not actually necessary for the charge, although each one of  
-08:-42:-07 **4** these defendants, I submit to you, the government submits, the  
-08:-42:-07 **5** evidence shows that each one of these defendants, in fact, was  
-08:-42:-07 **6** trained by Darren Griffin in different ways. Training comes in  
-08:-42:-07 **7** different forms; it doesn't necessarily mean running around in a  
03:15:33 **8** field. It can be done by looking at things and teaching  
03:15:36 **9** someone who has knowledge, can impart that knowledge in a  
03:15:39 **10** classroom, in a bedroom, even where there's a computer. By the  
-08:-42:-07 **11** way, this is October 8, 2004.

-08:-42:-07 **12** The unique skills that Darren Griffin brings to the  
-08:-42:-07 **13** table here include his knowledge of U.S. forces tactics. And  
03:16:03 **14** you hear this over and over again. One of the charges here,  
-08:-42:-07 **15** two of the charges here, three of the charges, all three of the  
03:16:11 **16** main types of charge include the allegation that these  
03:16:15 **17** defendants conspired among other things so that part of their  
03:16:21 **18** targeting was essentially U.S. troops. And you can see this  
03:16:25 **19** over and over again in the recordings; that, in fact, they're  
03:16:30 **20** looking to Darren Griffin for his unique knowledge about U.S.  
03:16:33 **21** tactics. And right here, Marwan El-Hindi is going to explain  
-08:-42:-07 **22** why that is.

03:16:45 **23** (Audio is played.)

03:17:23 **24** MR. SOFER: I'm sorry. That was the one before it.

-08:-42:-07 **25** Right here, Marwan El-Hindi is going to explain why that is.

-08:-42:-07 **1** That is why it's important to know U.S. tactics.

03:18:14 **2** (Audio is played.)

-08:-42:-07 **3** MR. SOFER: Fight your enemies to know their

03:18:19 **4** strategy. Again, this is a theme throughout the case.

-08:-42:-07 **5** Play the next piece of the same conversation on

-08:-42:-07 **6** October 8, 2003. To put a little background on this, you may

03:18:47 **7** or may not recall the testimony, but Marwan had gone overseas;

03:18:53 **8** it had to do with a wife or a domestic issue. And he returned.

03:18:59 **9** He's on the phone here with Khaleel. You can actually see it

-08:-42:-07 **10** and hear it on the recording. And they're having a

-08:-42:-07 **11** conversation, among other things, because Darren Griffin and

-08:-42:-07 **12** Marwan El-Hindi have been talking about Khaleel and Zubair and

-08:-42:-07 **13** what they've been up to.

03:22:34 **14** (Audio is played.)

-08:-42:-07 **15** MR. SOFER: The uncle is Zubair Ahmed's father.

-08:-42:-07 **16** And this is the man, you may recall a conversation where Marwan,

-08:-42:-07 **17** Defendant El-Hindi, says: I'm trying to help them for their

03:22:48 **18** family. This is the family he's trying to help. Everything

03:22:51 **19** your uncle does is B.S. Again, you have to look at the context

03:22:56 **20** of these conversations. And Marwan El-Hindi is pushing Khaleel

03:23:00 **21** here to see if he can get him to come to training. They don't

-08:-42:-07 **22** come to training. That's not one of the allegations in this

-08:-42:-07 **23** case. But what it shows you is he wants him to come to

-08:-42:-07 **24** training, and he's pushing him to come train.

03:23:13 **25** Let's continue.

03:24:10 **1** (Audio is played.)

-08:-42:-07 **2** MR. SOFER: Again, the fact that they don't come.

-08:-42:-07 **3** You heard the conversation on July 4. They had a long-term

03:24:17 **4** plan. Part of that plan was go to school, make money. Listen

-08:-42:-07 **5** to that conversation. It's clear. The fact he didn't actually

03:24:26 **6** show up on this date doesn't really mean anything. What's

-08:-42:-07 **7** important here is Marwan El-Hindi is again pushing them. And

-08:-42:-07 **8** he's undermining the very family he claims to be helping, that

03:24:37 **9** is Zubair's father, Khaleel's uncle.

03:24:42 **10** Let's play the next clip. Same date.

-08:-42:-07 **11** (Audio is played.)

03:25:23 **12** MR. SOFER: Zubair's father, Zubair's his only son

03:25:30 **13** according to this recording. He said: Watch out for him. And

-08:-42:-07 **14** the mother thinks that Marwan El-Hindi is too dangerous for him.

-08:-42:-07 **15** Why is that? Again, you have to look at the inferences, the

03:25:45 **16** logical, reasonable inferences that can be made from this.

03:25:50 **17** Zubair's mother thinks Marwan is dangerous. And Marwan, again,

-08:-42:-07 **18** if he rescued these kids from the fields of Jihad and said,

-08:-42:-07 **19** Don't ever do that, get your life together, why on earth would

-08:-42:-07 **20** Zubair's mother say he's too dangerous? They must know

-08:-42:-07 **21** something about Marwan also, and they must know something about

03:26:13 **22** what's happening here, and they don't want Marwan El-Hindi

-08:-42:-07 **23** around their kids.

03:26:23 **24** Your Honor, now would be a descent time to eat

03:26:26 **25** lunch if that's, in fact, what the jurors would like. I'm sure



-08:-42:-07 **1** it is.

03:26:32 **2** THE COURT: Okay. We will return. Let's try to

-08:-42:-07 **3** start at 1:00.

03:26:38 **4** (Lunch recess taken.)

03:27:21 **5** (Jury exits the courtroom.)

03:27:35 **6** THE COURT: Can you guys just give me a list of

-08:-42:-07 **7** exhibits?

03:27:43 **8** MR. HERDMAN: That's been filed. We filed a

-08:-42:-07 **9** complete Government's Exhibit list that contains everything that

03:27:48 **10** was marked for identification and/or offered or admitted into

-08:-42:-07 **11** evidence. There are two additional things that I want to make

-08:-42:-07 **12** a record of that are on that list. One is designated as 4-C.

-08:-42:-07 **13** That contains the actual sanction presentation clips that were

03:28:04 **14** played in court. That is to say the actual segments of audio

-08:-42:-07 **15** and/or video along with the transcripts associated with those

03:28:11 **16** clips. So we preserved essentially what was played here in

-08:-42:-07 **17** court at least from the government's perspective.

03:28:18 **18** Additionally, there's an exhibit designated as

03:28:21 **19** 215-A and 215-B. You'll remember, Your Honor, that we have --

-08:-42:-07 **20** we entered into evidence file listings that contained certain

03:28:31 **21** designated computer files that were located on compact disks or

03:28:35 **22** other computer evidence that was recovered in the case. What's

03:28:38 **23** on 215-A and 215-B is the actual virtual -- those actual files

-08:-42:-07 **24** as they existed on the computers.

-08:-42:-07 **25** THE COURT: The electronic restored data, just --

03:28:51 **1** MR. HERDMAN: We'd submit they're already in  
-08:-42:-07 **2** evidence. This is just a more accessible way so the record is  
03:28:58 **3** clearer.

-08:-42:-07 **4** THE COURT: Any objection?

-08:-42:-07 **5** MR. HARTMAN: We have no way of checking the  
03:29:02 **6** electronic part. If it is what's already been admitted, then  
03:29:09 **7** no.

-08:-42:-07 **8** THE COURT: Okay. It will be admitted. The same  
-08:-42:-07 **9** with 4-C. Obviously it's the recordings containing the  
-08:-42:-07 **10** evidence and transcripts are simply -- they're not evidence, but  
03:29:20 **11** they're --

03:29:20 **12** MR. HERDMAN: Technically we're not offering these  
-08:-42:-07 **13** into evidence. We wanted them as court exhibits so there's a  
-08:-42:-07 **14** clean record of what was played.

03:29:27 **15** THE COURT: Okay. Unless there's an objection --

-08:-42:-07 **16** MR. HARTMAN: No objection from us.

-08:-42:-07 **17** THE COURT: Okay. There was something, Mr.

03:29:34 **18** Witmer-Rich --

-08:-42:-07 **19** MR. WITMER-RICH: We need to move in the couple  
03:29:41 **20** exhibits which we have.

-08:-42:-07 **21** THE COURT: The clips?

03:29:43 **22** MR. WITMER-RICH: Right. Should I read them off?

-08:-42:-07 **23** THE COURT: Just give Amy a list.

03:29:51 **24** Anything further?

03:29:53 **25** MR. SOFER: I talked a little bit to Mr.

-08:-42:-07 **1** Witmer-Rich about this. I want to make sure we --

-08:-42:-07 **2** THE COURT: Talk to each other.

03:30:02 **3** MR. WITMER-RICH: Briefly we're also going to

03:30:04 **4** proffer a written summary of what our experts would have

03:30:08 **5** testified to.

03:30:09 **6** THE COURT: That's fine.

03:30:10 **7** MR. WITMER-RICH: And also proffer the transcript

-08:-42:-07 **8** that we had requested be played during the government's rebuttal

-08:-42:-07 **9** case. I'll just proffer that transcript.

-08:-42:-07 **10** THE COURT: Why don't you submit it in proffer and

-08:-42:-07 **11** make it part of the record. How are you doing in terms of your

-08:-42:-07 **12** ETA?

03:30:32 **13** MR. SOFER: Very poorly, Your Honor. Very

-08:-42:-07 **14** poorly. I think it's in the government's interest to speed

03:30:37 **15** things up. I'll do my best to do so.

03:30:41 **16** THE COURT: If it looks as though it's going to go

-08:-42:-07 **17** into evening by sort of the middle of the afternoon, what I

03:30:48 **18** would prefer to do, if the jury would let us, is simply give

03:30:52 **19** them an evening meal break and continue.

-08:-42:-07 **20** MR. SOFER: I'll discuss it with my colleagues.

-08:-42:-07 **21** (Lunch recess taken.)

04:22:38 **22** MR. SOFER: Judge, we wanted to have a brief

-08:-42:-07 **23** discussion about scheduling. From the government's standpoint,

-08:-42:-07 **24** I'm not happy about this, certainly not the way I would like it

-08:-42:-07 **25** to go, but -- and I will try to pick up my pace, but I've been

04:22:54 **1** told by our tech person that so far we've played a half an hour  
-08:-42:-07 **2** of four and a half hours of tape in an hour. And under that  
04:23:03 **3** theory, this could go a significantly longer period of time,  
-08:-42:-07 **4** possibly in excess of seven or eight hours. I don't really  
-08:-42:-07 **5** have a great suggestion about how to deal with that. I would  
-08:-42:-07 **6** say to Your Honor I apologize, but also we were told, in our  
04:23:20 **7** defense, that there would be no time limits. And I'm  
04:23:24 **8** certainly -- what I don't want to do, and I don't think defense  
04:23:27 **9** attorneys want to do either, was have the jury stay here very  
-08:-42:-07 **10** late and then have to come up, given the fact many of them have  
-08:-42:-07 **11** a long drive, very early tomorrow.

-08:-42:-07 **12** THE COURT: Well, the only practical alternative is  
-08:-42:-07 **13** for you to complete your argument when you complete it, and if  
04:23:43 **14** one or more of the defendants -- and if there's time tomorrow,  
-08:-42:-07 **15** is willing to present argument on behalf of his client, their  
-08:-42:-07 **16** client, then fine. But I cannot hold trial -- I cannot -- I  
04:24:03 **17** could conduct proceedings until no later than 1:00 on Friday.  
-08:-42:-07 **18** That also causes some serious problems with some things I should  
04:24:13 **19** be tending to in Cleveland, but they are less significant than  
-08:-42:-07 **20** this. I cannot not go to Cleveland for this investiture. If  
-08:-42:-07 **21** I weren't Chief Judge, everyone would understand. It's just  
-08:-42:-07 **22** one of those things. But you'll have to play it by ear. An  
04:24:34 **23** alternative is simply let you finish and say, ladies and  
-08:-42:-07 **24** gentlemen, due to scheduling issues, you'll have to come back on  
04:24:42 **25** Tuesday. Also, I really can't clear Monday. I start at 8:30

-08:-42:-07 **1** and go until 4:30, 5:00, usually later than that.

04:24:54 **2** MR. SOFER: Understood, Judge.

-08:-42:-07 **3** THE COURT: Probably more than a dozen things are

04:24:59 **4** scheduled.

-08:-42:-07 **5** MR. SOFER: Thinking outside the box, I don't know

04:25:03 **6** whether this would be acceptable to anyone here, certainly the

-08:-42:-07 **7** government would be willing to be here on the weekend if the

-08:-42:-07 **8** jury was and Your Honor was. I don't know whether that's a

04:25:12 **9** viable alternative either.

-08:-42:-07 **10** THE COURT: It probably would be okay with me. I

-08:-42:-07 **11** don't know about court reporters and also the jurors. I think

-08:-42:-07 **12** we'd probably -- I can't imagine the jurors would want to do

-08:-42:-07 **13** that.

-08:-42:-07 **14** MR. SOFER: If you like, Judge, what I would

-08:-42:-07 **15** propose is at the mid-afternoon break we see if -- I'll do

-08:-42:-07 **16** everything I can to pick up the pace, but I'm not optimistic.

04:25:36 **17** THE COURT: You have your argument to give. And

-08:-42:-07 **18** you shouldn't let my desire to compact everything by tomorrow

04:25:44 **19** evening get in the way. It's as simple as that.

04:25:49 **20** MR. SOFER: I think your desire and the

-08:-42:-07 **21** government's desire is certainly the same. We'd like to get

-08:-42:-07 **22** this case done and get it to the jury, but I can't cut out a big

04:25:58 **23** chunk in the middle.

-08:-42:-07 **24** THE COURT: We'll move along and see where we get.

04:26:04 **25** Amy, let's get jurors. And no problem. I'm not

04:26:09 **1** upset or whatever. You've got to give your argument, and they  
-08:-42:-07 **2** have to give theirs.

04:26:15 **3** MR. SOFER: Understood, Judge.

-08:-42:-07 **4** THE COURT: In all candor, though, I think it would  
04:26:19 **5** be somewhat unfair to defense, or at least one or more of them,  
04:26:27 **6** to have all of them present their arguments by whenever this  
-08:-42:-07 **7** week, and then for you to have Friday, Saturday, Sunday, Monday  
-08:-42:-07 **8** for rebuttal. I'm just saying I think it would be at least --  
-08:-42:-07 **9** I would hope one or more of the defendants would be willing to  
04:26:47 **10** go, to use the time, rather than have a complete hiatus. But  
-08:-42:-07 **11** then whichever defendant or defendants was left then would pick  
-08:-42:-07 **12** up on Tuesday. You'd have the rebuttal.

-08:-42:-07 **13** MR. SOFER: We'll follow the Court's orders,  
04:27:01 **14** obviously.

04:28:23 **15** (Jury enters the courtroom.)

-08:-42:-07 **16** THE COURT: Mr. Sofer, you may resume.

-08:-42:-07 **17** MR. SOFER: Good afternoon. I want to take you  
04:28:35 **18** quickly to where we are on the timeline here that's before you.

-08:-42:-07 **19** I've switched to the second board. And we're in October now of

04:28:47 **20** 2004. And what I'm hoping that you can see is that the two

04:28:56 **21** branches of the conspiracy continue to move on. There are

04:29:00 **22** occasional links between them, and they are headed towards a

04:29:07 **23** confluence in February of 2005.

04:29:11 **24** In October of 2004, you heard evidence that on

-08:-42:-07 **25** October 14 of 2004, Darren Griffin and Mohammad Amawi watched

04:29:25 **1** several videos in Mohammad Amawi's apartment.

04:29:32 **2** THE COURT: I'm sorry. That date?

04:29:35 **3** MR. SOFER: October 14, 2004.

04:29:39 **4** And I'm not going -- we're not going to play all

-08:-42:-07 **5** these videos again, obviously, but I want to make some points

04:29:48 **6** about them. And we will play some snippets of a couple of

-08:-42:-07 **7** them.

04:29:53 **8** First of all, it is not a crime to watch videos

-08:-42:-07 **9** like this. But it does show you what is inside of Mohammad

-08:-42:-07 **10** Amawi and, to the extent that they watched them as well, Marwan

-08:-42:-07 **11** El-Hindi and Wassim Mazloun's minds. And that's another way of

-08:-42:-07 **12** saying, it shows you their intent in this case.

04:30:14 **13** Specifically with respect to Mohammad Amawi, you

-08:-42:-07 **14** saw a lot of evidence of this and heard a lot of evidence of

04:30:20 **15** this. He cheers the murder of United States soldiers. He

-08:-42:-07 **16** gets very angry at the deaths of Muslims in Iraq and elsewhere.

-08:-42:-07 **17** And the government submits to you this shows what might motivate

-08:-42:-07 **18** him to commit the crimes he's charged with. He studies and

04:30:38 **19** comments on the tactics of both U.S. and mujahidin or holy

-08:-42:-07 **20** warriors when they are killing and ambushing U.S. service

-08:-42:-07 **21** people. He's constantly asking Darren Griffin questions about

-08:-42:-07 **22** what tactics are being used, how certain weaponry works, how

-08:-42:-07 **23** certain things operate. And this again shows you his intent.

04:31:01 **24** Not a crime to do these things, but it shows you his intent.

04:31:05 **25** In these recordings he identifies with people that

-08:-42:-07 **1** are in the video. He identifies with Osama Bin Laden; he  
04:31:15 **2** identifies Abu Musab al-Zarqawi and several other famous  
04:31:22 **3** jihadists. For you to understand, when he says, I love this  
-08:-42:-07 **4** person, or, I think this person should be called "shaykh", which  
-08:-42:-07 **5** is a term of respect, you have to look at those definitions you  
-08:-42:-07 **6** got fairly late in the case to really, fully understand what it  
-08:-42:-07 **7** means when he says, I love this guy. Most of us know Osama Bin  
-08:-42:-07 **8** Laden. Some of the other people he mentioned are much less  
-08:-42:-07 **9** well known. But if you have questions about what he's talking  
-08:-42:-07 **10** about, you can always go back to the definitions.  
04:31:54 **11** I would argue to you the evidence shows that these  
04:31:58 **12** videos serve a number of purposes. But one of the purposes  
-08:-42:-07 **13** that they clearly establish is recruitment. That's why they're  
-08:-42:-07 **14** coming out from these organizations and places. They are meant  
-08:-42:-07 **15** to recruit. They show successes on the battlefield. They  
04:32:17 **16** have catchy and inspirational songs on them. They are an  
04:32:22 **17** attempt at recruiting people.  
-08:-42:-07 **18** I see some of you smiling. The thing that I would  
-08:-42:-07 **19** say about this is -- and this is again from our common  
-08:-42:-07 **20** experience and experience in life, these are songs that you  
-08:-42:-07 **21** might actually hum in the hallway but for the fact that they're  
04:32:40 **22** singing about killing people. And the point that I want you to  
04:32:46 **23** understand, it's the same thing as a lot of the other evidence;  
-08:-42:-07 **24** when you first hear it, it strikes you one way. But if you get  
-08:-42:-07 **25** a translation for it, you get a definition of what's inside it,



-08:-42:-07 **1** it has a different meaning.

04:33:01 **2** I'd also submit to you, ladies and gentlemen, that

-08:-42:-07 **3** Mohammad Amawi spent a lot of time doing this. It shows you a

04:33:10 **4** couple things. I remember sitting here playing these clips,

-08:-42:-07 **5** and you probably -- you can't read my mind, just like I can't

-08:-42:-07 **6** read yours, but I was sitting here thinking: When is this ever

04:33:23 **7** going to end? It's going on and on and on. It's going to

04:33:27 **8** bore the jurors, et cetera. Well, think about what that meant

-08:-42:-07 **9** for Darren Griffin and Mohammad Amawi. They sat there for

04:33:32 **10** hours doing this. What does that show you? It shows you

04:33:37 **11** commitment. It shows you commitment on the part of Mohammad

-08:-42:-07 **12** Amawi. It also shows you commitment on the part of Darren

-08:-42:-07 **13** Griffin. This is not a fun job. Darren Griffin's a soldier,

-08:-42:-07 **14** former soldier. He did get emotional on the witness stand when

-08:-42:-07 **15** he described his previous service. He's sitting there watching

-08:-42:-07 **16** over and over the deaths and mutilation of United States service

-08:-42:-07 **17** people. It's not a fun job for him.

04:34:01 **18** So on October 14 there are -- there's a

-08:-42:-07 **19** conversation at Mohammad Amawi's house. And I am going to try

-08:-42:-07 **20** to pick up the pace, so I'll say less, hopefully less about each

-08:-42:-07 **21** one of these things as we go forward. The first one, again, is

-08:-42:-07 **22** from October 14 at Mohammad Amawi's apartment.

04:35:23 **23** Before we even play it, hopefully you can see on

04:35:27 **24** the transcript; this is not consistent with Mohammad Amawi's

04:35:30 **25** father's testimony, and I would submit to you that is because

-08:-42:-07 **1** Mohammad Amawi's father, like a lot of fathers, was trying to  
04:35:40 **2** help his son.  
04:36:07 **3** (Audio is played.)  
04:38:35 **4** MR. SOFER: Where did Darren Griffin get that line  
-08:-42:-07 **5** from? The government submits to you the evidence in the case  
04:38:40 **6** came from Marwan El-Hindi. That's Marwan El-Hindi's line.  
-08:-42:-07 **7** Although it is a truism that probably lots of people know, it  
04:38:49 **8** also -- I think Marwan El-Hindi said it came from one of the  
04:38:52 **9** Sunnah, which is one of the religious teachings. But the  
-08:-42:-07 **10** bottom line is this is a quintessential decision of what it is  
04:39:00 **11** Mohammad Amawi wants to do. It's not good enough to injure  
-08:-42:-07 **12** people. It's not good enough to blow yourself up, take  
-08:-42:-07 **13** yourself out of the fight. To do it right, to do it  
04:39:10 **14** efficiently, or to not do it at all. To do it efficiently, you  
-08:-42:-07 **15** have to learn. Who's going to teach him how to do that? Why  
04:39:18 **16** does he say: When are we going to start? It's Darren Griffin  
-08:-42:-07 **17** that fills in that piece of the puzzle for him.  
04:39:23 **18** By the way, that sounds awfully similar. And these  
-08:-42:-07 **19** people don't know each other yet. The government's not  
04:39:28 **20** presented any evidence that shows that Zubair and Khaleel Ahmed  
-08:-42:-07 **21** knew Mohammad Amawi. Sounds hauntingly familiar in the sense  
-08:-42:-07 **22** that that same kind of statement came from them in terms of  
04:39:39 **23** being interested in a standoff, something like a sniper rifle.  
04:39:53 **24** Next.  
-08:-42:-07 **25** (Audio is played.)

04:40:22 **1** MR. SOFER: That last statement is convincing, a  
-08:-42:-07 **2** very clear intent to commit the second count that is before you,  
-08:-42:-07 **3** the second charge, that is to provide material support to people  
-08:-42:-07 **4** overseas which, by the way, as the Judge instructed you earlier  
-08:-42:-07 **5** this morning, includes possibly training other people.

04:40:43 **6** Let's continue. These are all from the same day.

04:40:46 **7** (Audio is played.)

04:41:07 **8** MR. SOFER: Again, mirror U.S. tactics, learning

04:41:11 **9** U.S. tactics. Darren Griffin, what's he doing here? You

-08:-42:-07 **10** already know this now. He's effecting FBI priorities. They

04:41:20 **11** want him to find more people, if there are more people. Who

-08:-42:-07 **12** else is willing to show up for this? Who else would walk off

-08:-42:-07 **13** the street and sign up for this kind of training? Wassim

-08:-42:-07 **14** Mazloun is about to come into the group, but the question is,

-08:-42:-07 **15** who else might be out there?

04:41:40 **16** (Audio is played.)

04:42:53 **17** MR. SOFER: You know now who these individuals

-08:-42:-07 **18** are. He's referring to Zubair and Khaleel Ahmed.

04:43:41 **19** (Audio is played.)

04:43:43 **20** MR. SOFER: Again, discussing bringing other

-08:-42:-07 **21** people in. They don't say, hey, we're going to Iraq tomorrow.

-08:-42:-07 **22** They're saying things like: We just want to be prepared. And

-08:-42:-07 **23** those are the kinds of ways they would go find other people.

-08:-42:-07 **24** Again, Darren Griffin is trying to do that.

04:43:58 **25** Let's go to the next one.

-08:-42:-07 **1** (Audio is played.)

04:44:18 **2** MR. SOFER: Again, put -- for a moment put

04:44:21 **3** yourself in the shoes of the FBI. Imagine hearing this

04:44:23 **4** statement, getting the report that Mohammad Amawi has made this

04:44:26 **5** statement. Of course they continue to move the resource, that

-08:-42:-07 **6** would be Darren Griffin, make sure that he was in place to be

-08:-42:-07 **7** able to hear these kinds of things and see what might happen and

04:44:38 **8** go. And what does it show you again? It shows you Mohammad

04:44:41 **9** Amawi's intent. They're still in the relative beginning of

-08:-42:-07 **10** their relationship.

-08:-42:-07 **11** Let's continue. Again, ladies and gentlemen, this

-08:-42:-07 **12** is the beginning of this case. It's not the end. The

04:46:07 **13** government's case doesn't really even kick in until those two

04:46:11 **14** lines come together in February of '05.

04:46:37 **15** (Audio is played.)

04:46:37 **16** MR. SOFER: Again, FBI priorities, brothers that

-08:-42:-07 **17** are extreme.

04:46:42 **18** (Audio is played.)

04:48:15 **19** MR. SOFER: Again, this conversation has to be put

-08:-42:-07 **20** in context. If that's by itself, and that's all that was said,

-08:-42:-07 **21** that might mean one thing. In the conversation Mohammad Amawi

-08:-42:-07 **22** just had with Darren Griffin about jihad, about needing to

-08:-42:-07 **23** preserve himself, about what it was that he wanted to learn,

-08:-42:-07 **24** when he says he's a man, he's with us, there are further

04:48:35 **25** inferences that you can and should draw from the context in

-08:-42:-07 **1** which that conversation took place.

04:48:42 **2** Let's continue.

04:48:45 **3** (Audio is played.)

04:49:35 **4** MR. SOFER: Again, Mohammad Amawi is making fun of

-08:-42:-07 **5** people who say that Islam is peace, Islam is peace. That's

-08:-42:-07 **6** because that's not the way he interprets what it is that his

-08:-42:-07 **7** duty is.

04:49:47 **8** Let's continue.

04:50:39 **9** (Audio is played.)

04:50:42 **10** MR. SOFER: Mohammad Amawi's main complaint there?

04:50:45 **11** Not enough action. A lot of talk maybe, not enough action.

-08:-42:-07 **12** Mohammad Amawi wants action.

04:50:51 **13** The next conversation is from November 5, 2004.

04:50:55 **14** It's another conversation inside Mohammad Amawi's apartment with

-08:-42:-07 **15** Darren Griffin.

04:51:33 **16** (Audio is played.)

-08:-42:-07 **17** MR. SOFER: Again, very clear here. Mohammad

-08:-42:-07 **18** Amawi wants to use certain kinds of training for cover to cover

-08:-42:-07 **19** the actual training. And over and over again here we hear on

-08:-42:-07 **20** these tapes what is illegal and what makes these defendants

-08:-42:-07 **21** guilty in this case is the purpose of the training, not

04:51:53 **22** necessarily the training itself. Any of us could go to a gun

-08:-42:-07 **23** range and practice shooting. It's the reason you go there in

-08:-42:-07 **24** this case that matters.

-08:-42:-07 **25** Let's continue.

04:52:19 **1** (Audio is played.)

04:53:12 **2** MR. SOFER: Sniper rifle, President of the United

04:53:15 **3** States. I wish I was up there. Again, fairly obvious what's

-08:-42:-07 **4** happening here. What does it show you? It shows you his

-08:-42:-07 **5** intent and his intent to act.

04:53:29 **6** (Audio is played.)

04:53:50 **7** MR. SOFER: He's going to go on here. That's a

-08:-42:-07 **8** critically important statement also. Before Darren Griffin

-08:-42:-07 **9** said anything to Mohammad Amawi, he was in the process of trying

-08:-42:-07 **10** to get some of these weapons already. And thank goodness

04:54:06 **11** Darren Griffin was there, and thank goodness Darren Griffin's

-08:-42:-07 **12** cover story got out because who knows what would have happened

-08:-42:-07 **13** if Mohammad Amawi had been left to his own devices.

04:54:18 **14** Let's continue.

04:54:51 **15** (Audio is played.)

-08:-42:-07 **16** MR. SOFER: Better to have something legal

04:54:58 **17** because it draws less attention to you. I think the next

-08:-42:-07 **18** conversation is on November 15, 2005. Again, this is Mohammad

-08:-42:-07 **19** Amawi's apartment. Darren Griffin and Mohammad Amawi.

04:56:00 **20** (Audio is played.)

04:56:20 **21** MR. SOFER: Mohammad Amawi says, Let me call

-08:-42:-07 **22** Wassim. They just got finished talking about an attack in

04:56:26 **23** Iraq.

-08:-42:-07 **24** In fact, Mohammad Amawi does call Wassim. I

-08:-42:-07 **25** believe this will be it.

04:56:35 **1** (Audio played.)

04:57:30 **2** MR. SOFER: "Regarding the subject I talked to you

-08:-42:-07 **3** about that time." They've talked before already, and they

04:57:35 **4** talked about this. And he's purposely ambiguous about it

04:57:41 **5** because you don't say on the telephone, Remember the jihad

04:57:44 **6** training or the guy that I know who can teach us how to perform

-08:-42:-07 **7** jihad. So this conversation shows that they already have a

-08:-42:-07 **8** relationship, and they already discussed these subject matters.

04:58:40 **9** (Audio is played.)

04:58:42 **10** MR. SOFER: So they arrange to meet, and they do,

-08:-42:-07 **11** in fact, meet two days later on November 17 at Mohammad Amawi's

04:58:48 **12** house. This is the first meeting between Wassim Mazloun,

04:58:52 **13** Mohammad Amawi, and Darren Griffin. When I play this I'd ask

-08:-42:-07 **14** you, ladies and gentlemen, to think about this. Why does

04:58:59 **15** Wassim Mazloun stay? Why does he not run, not walk out of that

-08:-42:-07 **16** room? Listen to the things Mohammad Amawi says inside this

04:59:07 **17** bedroom and ask yourself: If Wassim Mazloun did not intend to

04:59:12 **18** commit these crimes, why on God's green earth did he stay there?

04:59:17 **19** Again, it's not a crime to sit there and listen to

-08:-42:-07 **20** somebody else, but it shows you his intent.

04:59:47 **21** (Audio is played.)

05:02:14 **22** MR. SOFER: So here Wassim Mazloun offers to bring

-08:-42:-07 **23** his brother. He says he's not that religious. But again,

05:02:22 **24** ladies and gentlemen, does it make any sense? If this were any

-08:-42:-07 **25** kind of security training or legitimate training, it wouldn't

05:02:28 **1** matter how religious his brother was.

05:02:38 **2** (Audio is played.)

05:03:02 **3** MR. SOFER: Wassim Mazloun, he says this again

-08:-42:-07 **4** elsewhere. He is not in favor of attacks here in the United

-08:-42:-07 **5** States. The defendants have some disagreement about this.

05:03:11 **6** You heard the Judge's charge. They don't have to agree on

-08:-42:-07 **7** everything; they have to agree on the main purpose. The main

05:03:19 **8** purpose here is to go overseas and fight among other people,

05:03:25 **9** U.S. troops. That, Wassim Mazloun is fine with. And we can

-08:-42:-07 **10** end it here.

-08:-42:-07 **11** Let's go to the next one, which is from, again,

05:03:40 **12** November 17. Listen to this and ask yourself if Wassim Mazloun

05:03:43 **13** did not intend to commit these crimes, why did he stick around?

05:03:47 **14** And more importantly, why did he come back again?

05:04:12 **15** (Audio is played.)

05:04:53 **16** MR. SOFER: "This is so useful." You may recall

05:04:56 **17** what these videos actually are. When you blow up a bomb with a

-08:-42:-07 **18** cell phone or radio, that's what Mohammad Amawi is talking about

-08:-42:-07 **19** here. And it is so useful to see how the mujahidin do it in

-08:-42:-07 **20** Iraq. And that's what he wants to learn. He knows that

-08:-42:-07 **21** ultimately the disks that have these videos on them, he knows

05:05:14 **22** they have training value. He said it right there. Let's

-08:-42:-07 **23** continue.

05:05:20 **24** (Audio is played.)

05:07:51 **25** MR. SOFER: Again, Mohammad Amawi is ready to die.



-08:-42:-07 **1** He's just determined that dying by himself and getting killed  
-08:-42:-07 **2** before he gets into Iraq is not good enough. Let's continue.  
05:08:06 **3** (Audio is played.)  
05:08:17 **4** MR. SOFER: Again, after listening to this --  
05:08:19 **5** you've got to put this in context. After listening to that,  
-08:-42:-07 **6** what does Wassim say? He's bought into "you train me, I'll  
05:08:30 **7** train someone else." The exact same concept Mohammad Amawi is  
-08:-42:-07 **8** talking about; it's doing good for a larger group of people,  
05:08:37 **9** doing more damage by teaching more people how to kill, how to  
-08:-42:-07 **10** maim, et cetera.  
-08:-42:-07 **11** Let's continue.  
05:09:11 **12** (Audio is played.)  
05:09:37 **13** MR. SOFER: "We have a pact between us." I ask  
-08:-42:-07 **14** you to remember that saying from Mohammad Amawi. "We have a  
-08:-42:-07 **15** pact between us." Who's in the room when he says that? Darren  
05:09:49 **16** Griffin, Wassim Mazloun, Mohammad Amawi. And he says, "I might  
05:09:54 **17** disappear, you know." Let's continue.  
05:10:00 **18** (Audio is played.)  
05:10:04 **19** MR. SOFER: After hearing this, "I might  
05:10:06 **20** disappear," what does Darren Griffin do? He effects FBI  
-08:-42:-07 **21** concerns. He says, oh, wait a second, if you're going to do  
05:10:17 **22** that -- he slows him down. Come back to me. He knows we don't  
05:10:21 **23** want Mohammad Amawi running around loose. There's got to be  
05:10:25 **24** some kind of way of keeping him close enough or at least  
05:10:31 **25** monitored enough by Darren Griffin's presence with him so that

-08:-42:-07 **1** the FBI knows what he's up to.

05:10:37 **2** Let's continue.

05:10:43 **3** He's about to talk about blowing up embassies.

05:10:46 **4** Wassim Mazloun sits there and listens to this, too.

05:11:02 **5** (Audio is played.)

05:11:12 **6** MR. SOFER: What does he say when Mohammad Amawi

-08:-42:-07 **7** says: If I can get to the embassy, I'll blow it up? Wassim has

-08:-42:-07 **8** a slightly different view of all this. He thinks it's better

05:11:22 **9** to go to the fields of jihad. "The fields of jihad," I

05:11:25 **10** believe, are described in your definitions. If I'm wrong about

-08:-42:-07 **11** that, certainly the evidence in the case shows you what "the

-08:-42:-07 **12** fields of jihad" are.

05:11:36 **13** Let's continue.

05:11:59 **14** (Audio is played.)

-08:-42:-07 **15** MR. SOFER: That conversation continued even more.

05:12:06 **16** (Audio is played.)

05:12:25 **17** MR. SOFER: Now, Mohammad Amawi is talking about

-08:-42:-07 **18** the people who died at the Pentagon on 9/11. And he doesn't

-08:-42:-07 **19** feel sorry about this at all. Again, Wassim Mazloun sits

-08:-42:-07 **20** there. Eventually after listening to all this, I think you're

-08:-42:-07 **21** going to hear in this clip -- you're going to hear Wassim

05:12:44 **22** Mazloun respond not in a negative way, but: If you need money,

-08:-42:-07 **23** I can get some to you, or I can pay some. We'll see. It's

-08:-42:-07 **24** coming.

05:12:55 **25** (Audio is played.)

05:14:47 **1** MR. SOFER: Who's the gift that God has sent?

05:14:51 **2** It's Darren Griffin. Like Moses, who was in the land of the

05:14:56 **3** pharaohs, trained or at least grew up there, was sent to the

-08:-42:-07 **4** pharaoh, was sent to the head. Darren Griffin was trained by

-08:-42:-07 **5** the United States Army. That's what he's saying. He's saying

-08:-42:-07 **6** we need to use this gift. That's what they see Darren Griffin

-08:-42:-07 **7** as. He's the way they fill in the missing pieces of the

05:15:14 **8** puzzle.

05:15:16 **9** Let's continue. This conversation went on.

-08:-42:-07 **10** (Audio is played.)

05:16:09 **11** MR. SOFER: Shrouded. They're shrouding jihad

05:16:14 **12** training inside of VIP training or whatever else Darren

05:16:18 **13** Griffin's security company can give them in terms of any kind of

05:16:23 **14** show. There is no doubt, ladies and gentlemen, that after this

05:16:27 **15** conversation on this day there is an agreement here. These men

05:16:31 **16** sat and agreed. What they agreed to is as plain as the

05:16:37 **17** transcript that's right in front of you.

-08:-42:-07 **18** Let's continue. You can end this one. The

05:16:46 **19** conversation keeps going on.

05:16:54 **20** (Audio is played.)

05:17:34 **21** MR. SOFER: Not only agreeing on the purpose of

05:17:36 **22** the training, but they are coming to an understanding about how

-08:-42:-07 **23** to hide the purpose of the training. And Wassim Mazloun is

05:17:42 **24** actively participating and enthusiastically coming up with ideas

-08:-42:-07 **25** of how they might do this.

05:17:48 **1** Continue.

05:18:01 **2** In this conversation they're going to talk about

05:18:04 **3** ties to Afghanistan, Iraq, and Jordan. Wassim Mazloun is going

-08:-42:-07 **4** to sit there and listen to this and ultimately continue in the

05:18:12 **5** conversation.

05:19:51 **6** (Audio is played.)

05:19:54 **7** MR. SOFER: It kept going.

05:19:59 **8** (Audio is played.)

05:20:34 **9** MR. SOFER: The conversation kept going. Again,

-08:-42:-07 **10** ask yourself: What does this show about the agreement and the

-08:-42:-07 **11** intent? They want to bring other people so they can do tactics.

-08:-42:-07 **12** They don't have to tell them everything right away. They may

05:22:02 **13** never have to tell them everything. Everything is, again, the

-08:-42:-07 **14** purpose for this training. And he's about to say -- as Darren

-08:-42:-07 **15** Griffin is about to say: Just say we're going out and, you

-08:-42:-07 **16** know, the brother's going to train us for protection and our

05:22:15 **17** family's protection. Is it a coincidence that that's what

05:22:19 **18** Wassim Mazloun's witnesses told you when they came in here that

05:22:24 **19** he told them?

05:22:26 **20** Let's continue.

05:22:37 **21** (Audio is played.)

05:22:43 **22** MR. SOFER: The cause. Let's go to the next one.

05:22:53 **23** Look how eager Wassim Mazloun is in this next part.

05:22:56 **24** Again, this is after hearing all these things.

05:24:58 **25** (Audio is played.)

05:25:01 **1** MR. SOFER: Again, what's happening here?

05:25:03 **2** Mohammad Amawi wants to make videos of their training so he can

-08:-42:-07 **3** go train other people overseas, so he can provide support to

-08:-42:-07 **4** other people overseas, so he can provide training to people

-08:-42:-07 **5** overseas that are his soul. You already know what his soul is;

05:25:17 **6** you just heard him describe that he wants to die a martyr.

05:25:22 **7** Now, Wassim Mazloun and Darren Griffin don't think

05:25:24 **8** that's a good idea because you could get caught that way. So

-08:-42:-07 **9** Wassim Mazloun is careful. What does that tell you about him?

-08:-42:-07 **10** He knows. He knows what they're doing is plotting and planning

05:25:34 **11** something, conspiring, agreeing to something that is wrong.

05:25:40 **12** Let's continue. This next one I believe is -- is

-08:-42:-07 **13** this 12? This is from November 23, 2004. So we're about six

-08:-42:-07 **14** days later, also in Mohammad Amawi's apartment.

05:27:16 **15** (Audio is played.)

05:27:19 **16** MR. SOFER: Here Mohammad Amawi thinks Darren

05:27:20 **17** Griffin -- thinks he's talking about jihad, and he's not. He's

-08:-42:-07 **18** talking about security. He makes it clear. That is, Darren

05:27:28 **19** Griffin clarifies with one of the defendants that he's not

05:27:31 **20** talking about jihad. He's talking about security. You notice

-08:-42:-07 **21** that Mohammad Amawi says "about these things." So he doesn't

-08:-42:-07 **22** necessarily put it out there exactly in terms of jihad, but it's

-08:-42:-07 **23** very clear from that conversation what he's talking about.

05:27:46 **24** Later on here, and I want to play the whole thing,

-08:-42:-07 **25** Amawi ends up warning Darren Griffin about the fact that people

-08:-42:-07 **1** in Egypt don't support Osama Bin Laden or jihad enough, and  
-08:-42:-07 **2** refers to the Muslim brotherhood, which I believe is also in  
-08:-42:-07 **3** your definitions.

05:28:04 **4** Let's play the next clip from this day.

05:28:07 **5** (Audio is played.)

05:28:34 **6** MR. SOFER: Again, you know what Darren Griffin is  
05:28:36 **7** doing there. He hears, "a surprise for Americans in Iraq."

-08:-42:-07 **8** He says, "What's going to happen?" He works for the FBI, ladies

-08:-42:-07 **9** and gentlemen. It didn't sound this way necessarily the first

-08:-42:-07 **10** time you went through this. Now he's trying to gather

05:28:50 **11** information. Of course the FBI is going to follow up in the

-08:-42:-07 **12** United States on threats to our military overseas, and of course

-08:-42:-07 **13** they're going to ask Darren Griffin to do that, and he executed

-08:-42:-07 **14** their orders.

05:29:45 **15** (Audio is played.)

-08:-42:-07 **16** MR. SOFER: I'm not going to play the rest of it.

-08:-42:-07 **17** Basically he describes -- and your recollection of the evidence,

-08:-42:-07 **18** you may recall this. If not, you can always ask to rehear this.

05:29:55 **19** But the bottom line is he talks about basically an ambush that's

-08:-42:-07 **20** planned for the Americans.

05:30:00 **21** Let's continue.

05:30:38 **22** (Audio is played.)

05:30:38 **23** MR. SOFER: Here's Darren Griffin making a joke.

-08:-42:-07 **24** It may not be a very funny joke, but it's a joke. Mohammad

-08:-42:-07 **25** Amawi's really not interested in joking around. "This is what

-08:-42:-07 **1** they call a suicide bomber. Amazing." You may recall this  
-08:-42:-07 **2** particular video. This one ends with a dead marine on the  
05:30:56 **3** ground. We'll show you a piece of that later.

-08:-42:-07 **4** Let's go to the next clip. Same day.

05:31:40 **5** (Audio is played.)

05:32:15 **6** MR. SOFER: I'm not going to play this whole

-08:-42:-07 **7** thing, through. You probably remember this video. It was

-08:-42:-07 **8** played a number of times. What does it show? Intent. Look

05:32:24 **9** at the pieces of body, see the pieces. But actually the more

05:32:28 **10** illuminating line is -- you can see it on your screen there,

-08:-42:-07 **11** "Yeah, pieces. Yeah, the brothers are working." The brothers

05:32:36 **12** are the jihadists in Iraq. There's a lot of discussion of the

05:32:40 **13** brothers. When Mohammad Amawi talks about the brothers, many

05:32:43 **14** times it's very clear from the context, again, of the

05:32:46 **15** conversation what brothers he's talking about.

05:32:52 **16** Let's go to the next one.

05:35:19 **17** (Audio is played.)

05:35:19 **18** MR. SOFER: "And then you start showing the

05:35:22 **19** Americans that you can do it." What an amazingly ironic

05:35:26 **20** statement to hear this statement. Mohammad Amawi is an

-08:-42:-07 **21** American. He's an American citizen, born in an American

-08:-42:-07 **22** military hospital. Wassim Mazloun was trying to become an

-08:-42:-07 **23** American citizen. And Marwan El-Hindi is also an American

05:35:40 **24** citizen. Let's continue.

05:35:53 **25** (Audio is played.)

05:36:06 **1** MR. SOFER: Again, member orders, FBI priorities,  
-08:-42:-07 **2** let me know when and where. Very important that Mohammad Amawi  
05:36:13 **3** continue to trust Darren Griffin in order to tell him what is  
05:36:17 **4** going on. Very important that Darren Griffin be able to be in a  
-08:-42:-07 **5** position to report this back to the FBI. If after listening to  
-08:-42:-07 **6** this conversation you don't think it was a good thing that the  
-08:-42:-07 **7** FBI managed to get their human source next to Mohammad Amawi,  
05:36:35 **8** what was just said here, now he's beginning to think it's okay  
05:36:40 **9** to do jihad in America, then I don't know what you would expect  
-08:-42:-07 **10** from the FBI.  
-08:-42:-07 **11** Let's continue.  
05:37:07 **12** (Audio is played.)  
05:37:44 **13** MR. SOFER: Let's play the next one, the same day.  
05:37:53 **14** MR. HARTMAN: What was that date again?  
05:37:55 **15** MR. GETZ: November 23, 2004.  
05:41:18 **16** MR. SOFER: Do you hear Amawi laughing? "Look,  
05:41:22 **17** mom, I'm flying." Hardly a better expression of somebody's  
05:41:31 **18** intent.  
-08:-42:-07 **19** Let's go to the next one. And, by the way, he  
05:41:35 **20** says in that one, "No one told you to go to Iraq." Okay.  
05:42:16 **21** MR. SOFER: Here this whole thing about creating  
-08:-42:-07 **22** cells. Sure, Darren Griffin is telling them he's creating  
-08:-42:-07 **23** different cells. He's telling lots of people he's training  
05:42:28 **24** different groups. There's already part of the cell created  
-08:-42:-07 **25** here; it was created by Mohammad Amawi when he went out and



05:42:34 **1** grabbed Wassim Mazloun. So this cell is already beginning to  
-08:-42:-07 **2** take form. What else Darren Griffin is telling them he's doing  
-08:-42:-07 **3** he does because he wants to maintain his cover and maintain his  
-08:-42:-07 **4** ability to go out into the community and find out who else is  
-08:-42:-07 **5** doing these kinds of things. And, by the way, it doesn't  
05:42:50 **6** appear that everybody feels this way. You would think that  
-08:-42:-07 **7** there would be other people signing up, but not many more people  
-08:-42:-07 **8** do, and Mohammad Amawi is about to tell you why.  
05:43:39 **9** (Audio is played.)  
05:43:40 **10** MR. SOFER: Apparently not everyone in this  
05:43:42 **11** community agrees with Mohammad Amawi. In fact, you know from  
05:43:45 **12** Mikaeil Almozrouei and your common sense that very few people  
-08:-42:-07 **13** probably do. He doesn't want to take chances by signing up  
05:43:53 **14** someone who's not completely ready to do the kind of things that  
05:43:57 **15** they are suggesting.  
05:43:58 **16** Let's go to the next one.  
05:44:35 **17** (Audio is played.)  
05:44:58 **18** MR. SOFER: This is one of those dates, ladies and  
-08:-42:-07 **19** gentlemen, when Darren Griffin received the CD from Mohammad  
-08:-42:-07 **20** Amawi. We can go to the next exhibit.  
05:45:08 **21** Again, I'm not going to go through everything  
-08:-42:-07 **22** that's on these CDs, but given the context again here, you heard  
05:45:15 **23** Amawi talk about how these things are very useful. They're  
-08:-42:-07 **24** useful for the training. Here's what's, among other things, on  
-08:-42:-07 **25** this particular CD. There's a directory, so it holds a whole

-08:-42:-07 **1** bunch of files called the "Heroes of Palestine". And if you  
-08:-42:-07 **2** look, there are rockets mentioned there, explosions on all of  
-08:-42:-07 **3** this. There are these Big 1 through Big 6 files, which I  
-08:-42:-07 **4** believe Agent Gubanich testified about what some of these things  
05:45:53 **5** were. They were training videos about clearing rooms,  
-08:-42:-07 **6** preparing for attacks, using something that's made to look like  
-08:-42:-07 **7** a security vehicle. There are beheading videos and artillery  
05:46:06 **8** education videos coming up also on this particular disc. So  
-08:-42:-07 **9** here are some of the beheadings, artillery education, things  
05:46:18 **10** inspired by Fallujah. You just heard Mohammad Amawi talk about  
05:46:22 **11** Fallujah, a place, again, that I believe is mentioned in your  
-08:-42:-07 **12** definitions, but if it's not, clearly the evidence shows it's a  
-08:-42:-07 **13** place in Iraq where, among other things, there was a major clash  
05:46:33 **14** between U.S. forces and Iraqi terrorists or insurgents.

05:46:40 **15** This next clip comes now from December 13, 2004.

-08:-42:-07 **16** Again, we're not stopping at every video. I'm trying to take  
-08:-42:-07 **17** you down this timeline so you can see not all the things we're  
05:46:56 **18** mentioning here on the timeline, but you can see the progression  
-08:-42:-07 **19** of how this conspiracy and the two branches of it are moving  
05:47:03 **20** ahead. This is also in Mohammad Amawi's apartment.

05:47:20 **21** (Audio is played.)

05:47:40 **22** MR. SOFER: Again, talking about two different  
-08:-42:-07 **23** things here. People who might want to learn how to shoot and  
-08:-42:-07 **24** the -- but only a couple of them, Darren Griffin tells him, are  
-08:-42:-07 **25** the ones who might actually want to do Jihad. And what does

05:47:55 **1** Mohammad Amawi say? "May Allah guide them to the right path."  
-08:-42:-07 **2** The right path for Mohammad Amawi, it's clear by now what the  
05:48:02 **3** right path is, it's Jihad, violent Jihad. Let's continue.  
05:48:10 **4** (Audio is played.)  
05:49:03 **5** MR. SOFER: Mohammad Amawi didn't think Darren  
-08:-42:-07 **6** Griffin was that funny before when he made a joke about the  
-08:-42:-07 **7** group Black Jihad. This he thinks is funny. Again, this is  
-08:-42:-07 **8** presented to you, ladies and gentlemen, just to show what is in  
05:49:18 **9** this man's mind, what is his intent. If we can, just show what  
-08:-42:-07 **10** exactly he's talking about, that "they love life."  
05:49:57 **11** (Audio is played.)  
-08:-42:-07 **12** MR. SOFER: Remember, Mohammad Amawi says he  
05:50:00 **13** thinks they found another bomb or another explosive. These are  
-08:-42:-07 **14** emergency workers apparently trying to help the victims of this  
05:50:07 **15** bombing.  
05:50:27 **16** (Video is shown.)  
05:50:35 **17** MR. SOFER: This conversation continued on 12/13  
05:50:38 **18** inside Mohammad Amawi's apartment.  
05:51:34 **19** Here's Mohammad Amawi's revelation about his kind  
-08:-42:-07 **20** of Jihad.  
05:52:06 **21** (Audio is played.)  
05:52:13 **22** MR. SOFER: And again, Darren Griffin executing  
-08:-42:-07 **23** FBI orders to make sure that Mohammad Amawi doesn't at least try  
-08:-42:-07 **24** to influence, to make sure that Mohammad Amawi doesn't go off  
-08:-42:-07 **25** and do something on his own without at least letting Darren

-08:-42:-07 **1** Griffin know about it before then.

05:52:34 **2** Let's keep going. There's another three of these

-08:-42:-07 **3** from this day.

05:53:45 **4** (Audio is played.)

-08:-42:-07 **5** MR. SOFER: I think that one speaks for itself.

05:53:49 **6** Let's keep going.

05:54:05 **7** (Audio is played.)

05:55:16 **8** MR. SOFER: You can read the rest of that screen.

-08:-42:-07 **9** Let's play one more from this date. This is another person

-08:-42:-07 **10** Mohammad Amawi loves.

05:55:27 **11** (Audio is played.)

05:57:28 **12** MR. SOFER: Again, if you want to peer in the

05:57:32 **13** intent and mind of someone, look and see what they laugh at.

-08:-42:-07 **14** Here's what he was laughing at. You probably recall this also

-08:-42:-07 **15** from us playing it.

05:57:56 **16** (Video is shown.)

-08:-42:-07 **17** MR. SOFER: At the end of this particular clip

-08:-42:-07 **18** Darren Griffin said to Mohammad Amawi as to the picture of the

05:58:05 **19** sniper rifle, again, training purposes. It's clear that what

-08:-42:-07 **20** Darren Griffin wants and needs and is asking for in these videos

-08:-42:-07 **21** and why Mohammad Amawi is giving them to him is for their

05:58:15 **22** training value, among other things.

05:58:19 **23** On 12/16/04, now we're back to the other side.

-08:-42:-07 **24** THE COURT: Time to break?

05:58:34 **25** MR. SOFER: That would be fine, Judge.

05:58:34 **1** (Jury exits the courtroom.)

05:59:21 **2** MR. SOFER: I should put on the record that just

-08:-42:-07 **3** now one of the jurors was walking by and he said we can't see

-08:-42:-07 **4** the chart back there. I didn't respond, but I'll try to work

-08:-42:-07 **5** it out so we can show it on both sides.

05:59:34 **6** THE COURT: How are you doing?

05:59:35 **7** MR. SOFER: Not well, Judge. We're moving faster,

-08:-42:-07 **8** but...

-08:-42:-07 **9** THE COURT: How much not well? What do you think?

-08:-42:-07 **10** How much longer do you think your entire closing is going to be?

-08:-42:-07 **11** MR. SOFER: If we have a couple minutes, I think

-08:-42:-07 **12** we can figure out exactly how far we've gotten. But certainly

05:59:53 **13** we're looking at -- it would be an extraordinarily late night to

-08:-42:-07 **14** try to finish. About 9:00.

-08:-42:-07 **15** THE COURT: As soon as you know, let me know, and

-08:-42:-07 **16** let Amy know. I would be willing to ask the jurors how late

-08:-42:-07 **17** the jurors would be willing to stay.

06:00:11 **18** MR. SOFER: We played an hour and a half. We

06:00:13 **19** have three more hours to go.

06:00:15 **20** THE COURT: We started at 10:30. About two and a

-08:-42:-07 **21** half hours to do? About two and a half hours?

-08:-42:-07 **22** MR. SOFER: To do an hour and a half.

06:00:26 **23** THE COURT: How much longer do you have?

06:00:31 **24** MR. SOFER: There's other things we're doing,

-08:-42:-07 **25** Judge. We are moving at a faster pace. It would seem to

-08:-42:-07 **1** indicate we're getting closer to a 1.1 ratio of time to actually  
-08:-42:-07 **2** that we have versus it was two to one.

06:00:49 **3** THE COURT: Why don't we see how late they're  
-08:-42:-07 **4** willing to stay. We have a backup court reporter, but she is  
-08:-42:-07 **5** not realtime certified.

06:15:27 **6** (Recess taken.)

06:19:15 **7** THE COURT: Ladies and gentlemen, Amy tells me that  
-08:-42:-07 **8** if necessary you might be willing to stay until 6:00 or 7:00

06:19:25 **9** provided you had a couple more breaks. We'll see how it goes.

-08:-42:-07 **10** It's going somewhat more slowly than we anticipated. It's

-08:-42:-07 **11** nobody's fault. It's important that each party and all the

06:19:42 **12** attorneys have the time necessary to present the arguments. So

-08:-42:-07 **13** we will resume. We'll keep going and see how far we get. I

-08:-42:-07 **14** would like very much, by the way, if at all possible, if you can

-08:-42:-07 **15** just put that little sign down. I can either see them and they

-08:-42:-07 **16** not hear me or they can hear me or I can't see them, or if I see

06:20:06 **17** them they may not really hear me.

-08:-42:-07 **18** I have indicated to Counsel that I would like, if

-08:-42:-07 **19** at all possible, even if the government's argument carries over,

06:20:16 **20** it might, if we stay that late, until tomorrow, that I would

06:20:20 **21** really want to finish up tomorrow or tomorrow evening, perhaps.

06:20:25 **22** Then, of course, on Friday, if you can deliberate or if you came

-08:-42:-07 **23** in late in the morning or whatever, that would be entirely up to

-08:-42:-07 **24** you. So maybe before you leave tonight, if you could let Amy

-08:-42:-07 **25** know how late you think you could stay tomorrow. I know Tracy

06:20:49 **1** has a child who's graduating from junior high school this  
-08:-42:-07 **2** evening. Some of you may have similar obligations or  
06:20:57 **3** situations that you'd like to accommodate. Feel free to let  
06:21:02 **4** Amy know. But it would be very helpful to all of us if we  
06:21:09 **5** could all kind of work toward that, realizing it may make a  
06:21:14 **6** somewhat late evening tomorrow, perhaps even later than 6:00 or  
06:21:19 **7** 7:00. We're all doing our best. We're trying to be  
06:21:24 **8** accommodating to you.  
-08:-42:-07 **9** Mr. Sofer, you may continue.  
06:21:28 **10** MR. SOFER: I'm going to put this back up if it's  
-08:-42:-07 **11** acceptable to Your Honor.  
06:21:40 **12** Ladies and gentlemen, I know you can't all see this  
-08:-42:-07 **13** very well. We'll either give you a copy of it to look at, if  
-08:-42:-07 **14** that's acceptable to Your Honor and Counsel, or we'll --  
06:21:51 **15** THE COURT: Of course. That's fine.  
06:21:53 **16** MR. SOFER: I don't want to do that now. I want  
-08:-42:-07 **17** to try to move through the material.  
06:22:00 **18** Remember now we are -- we're now in the -- or up to  
06:22:08 **19** December 16 of '04. So the end of '04 is coming. And still  
-08:-42:-07 **20** there are two branches of the conspiracy. They are headed  
-08:-42:-07 **21** towards each other in February. And while all this was  
06:22:24 **22** happening with Mohammad Amawi that you heard about right before  
-08:-42:-07 **23** the break, Darren Griffin continued to work also and spent time  
-08:-42:-07 **24** with Marwan El-Hindi. And we're going to play the next clip,  
-08:-42:-07 **25** which is from December 16, and it's at Marwan El-Hindi's home,

-08:-42:-07 **1** and Darren Griffin and Marwan El-Hindi are talking. And before  
06:22:47 **2** you listen to it, so I don't have to stop it, look for the part  
06:22:52 **3** where -- this is an incredibly important conversation because  
06:22:58 **4** Marwan El-Hindi says two words which are critical to this case:  
-08:-42:-07 **5** "I understand". So when we get to that, I'd ask you to pay  
06:23:12 **6** attention to that, please.  
06:23:14 **7** (Audio is played.)  
06:23:24 **8** MR. SOFER: "How many brothers do we have now?"  
06:25:17 **9** (Audio is played.)  
06:25:19 **10** MR. SOFER: Two kinds of training, ladies and  
06:25:22 **11** gentlemen: Jihad training and another kind of training. He  
06:25:27 **12** understands. He absolutely understands. And he understands  
-08:-42:-07 **13** the difference between them.  
06:25:35 **14** Let's continue to January 10, 2005. And Darren  
06:25:43 **15** Griffin is back now at Mohammad Amawi's house. This was  
-08:-42:-07 **16** another day with lots of videos, if you recall from the  
-08:-42:-07 **17** testimony, where a number of videos were playing. We played a  
-08:-42:-07 **18** number of clips and showed you a number of videos that were  
06:25:58 **19** playing in the background that day.  
-08:-42:-07 **20** (Audio is played.)  
06:26:24 **21** MR. SOFER: "Cutting heads" are related to these  
06:26:29 **22** beheading videos. There are a lot more in evidence. I would  
06:26:33 **23** not encourage you to watch them; nevertheless, when he says,  
06:26:37 **24** "I'm cutting heads; it would be a pleasure," gives you, again,  
-08:-42:-07 **25** some idea of his intent.



06:26:43 **1** Next, please. Next clip, please.

-08:-42:-07 **2** (Audio is played.)

-08:-42:-07 **3** MR. SOFER: Again, here is Mohammad Amawi bringing

06:27:24 **4** up the fact that independently he has found videos on the

-08:-42:-07 **5** internet to show you how to make bombs. We're going to discuss

-08:-42:-07 **6** one of those on this day. This is the day that Mohammad Amawi

-08:-42:-07 **7** plays the bomb vest video for Darren Griffin, thereby

06:27:40 **8** distributing by him -- distributing by any means, including

06:27:44 **9** sitting somebody down and accessing, showing them this video and

-08:-42:-07 **10** translating it for him.

06:27:51 **11** Let's go to the next clip.

06:28:24 **12** (Audio is played.)

06:28:25 **13** MR. SOFER: Again, the same concept. Darren

-08:-42:-07 **14** Griffin executing FBI orders and Mohammad Amawi saying, every

06:28:34 **15** time he sees the news, he wants to go over there. "Over there"

-08:-42:-07 **16** is Iraq, ladies and gentlemen.

06:28:41 **17** Let's continue.

06:28:45 **18** (Audio is played.)

06:29:42 **19** MR. SOFER: You see here Darren Griffin says: You

-08:-42:-07 **20** talk to the other brothers. You think they're ready to train

06:29:50 **21** now? Again, trying to find out who else is out there. Again,

06:29:55 **22** Mohammad Amawi has been talking to the other brothers, according

-08:-42:-07 **23** to him.

-08:-42:-07 **24** Let's continue.

06:30:16 **25** (Audio is played.)

06:31:17 **1** MR. SOFER: This is the training the trainer  
-08:-42:-07 **2** concept, to provide training to others. And Mohammad Amawi  
06:31:23 **3** talks elsewhere about providing that training to other people  
06:31:26 **4** overseas. And again, the import of all of the evidence is that  
-08:-42:-07 **5** this is violent jihad training.  
06:31:36 **6** The next clip, please.  
06:31:39 **7** (Audio is played.)  
06:32:51 **8** MR. SOFER: A clear expression of his intent and  
-08:-42:-07 **9** what his long-term intent is as well. You can catch me; you  
-08:-42:-07 **10** can kill me, but for what I believe it's true, I am going to  
-08:-42:-07 **11** keep doing it until I do it, achieve it.  
06:33:11 **12** Let's go to the next clip. Actually, you can skip  
-08:-42:-07 **13** that one.  
06:33:17 **14** (Audio is played.)  
06:33:31 **15** MR. SOFER: I know you can't all see this, but on  
-08:-42:-07 **16** the timeline, that's what this dotted line is for. Because  
06:33:40 **17** it's the first time that Darren Griffin describes Marwan  
06:33:45 **18** El-Hindi to Mohammad Amawi. There's already been a  
06:33:48 **19** conversation in which Darren Griffin described Mohammad Amawi to  
06:33:52 **20** Marwan El-Hindi, but this is the first time it goes in that  
06:33:56 **21** direction.  
-08:-42:-07 **22** Let's continue.  
06:33:59 **23** (Audio is played.)  
06:34:37 **24** MR. SOFER: That's Zubair and Khaleel Ahmed that  
06:34:41 **25** he's talking about. They introduced me to some good brothers

06:34:45 **1** that want training also. Amawi asks if he wants to train  
06:34:49 **2** himself. And Darren Griffin says: Yes, and his wife. And  
-08:-42:-07 **3** Amawi says: May Allah be praised.  
-08:-42:-07 **4** This introduction is still important. We're still  
06:34:59 **5** a ways away from the actual date that they meet. But Darren  
06:35:02 **6** Griffin has assured Mohammad Amawi that he can trust Marwan  
-08:-42:-07 **7** El-Hindi, and that's going to be important as we come up on  
-08:-42:-07 **8** this. Play the next one now. By the way, this is the bomb  
06:35:23 **9** vest video.  
06:35:24 **10** (Audio is played.)  
06:36:23 **11** MR. SOFER: And you can hear that bomb vest video  
06:36:26 **12** playing in the background. If you have any doubts about  
-08:-42:-07 **13** whether that bomb vest video is playing in the background on any  
06:36:31 **14** of these recordings, please listen to it yourself. I'm not  
-08:-42:-07 **15** going to sit up here and lay them side-by-side, but it's the  
-08:-42:-07 **16** same thing. You can hear it. Here's a few shots from that  
06:36:44 **17** video. I'm sure you remember it; we played it a number of  
06:36:48 **18** times. Again, what's happening here, ladies and gentlemen, is  
-08:-42:-07 **19** a form of distribution. It's Mohammad Amawi accessing this,  
06:36:55 **20** translating it, showing it to Darren Griffin. And under the  
-08:-42:-07 **21** statute, which we'll discuss towards the end of my comments,  
-08:-42:-07 **22** that is distribution.  
06:37:06 **23** Let's go on to the next.  
06:37:42 **24** (Audio is played.)  
-08:-42:-07 **25** MR. SOFER: I'm not going to play all of these for

-08:-42:-07 **1** you again. I'm not going to play this again. If you have any  
-08:-42:-07 **2** doubts, ladies and gentlemen, any doubts about the fact that  
-08:-42:-07 **3** Mohammad Amawi played this, translated it, then please ask to  
-08:-42:-07 **4** listen to this particular day and time again.  
06:38:28 **5** What we have here, ladies and gentlemen, is a file  
06:38:32 **6** list from the computer that Mohammad Amawi had towards the end  
-08:-42:-07 **7** of the case that was recovered by the FBI. And on this  
06:38:42 **8** computer, which is recovered about a year after this  
-08:-42:-07 **9** conversation, more than a year after the conversation we just  
-08:-42:-07 **10** heard, the bomb vest video is on that computer. Now it's  
-08:-42:-07 **11** called something else; it's a different file, but it's the same  
06:39:00 **12** bomb vest video. And Robert Antoon testified it was the same  
06:39:05 **13** bomb vest video.  
06:39:08 **14** You heard Darren Griffin talk about pieces of the  
06:39:12 **15** puzzle. And I have commented a few times about pieces of the  
06:39:18 **16** puzzle. Again, listening to these recorded conversations,  
-08:-42:-07 **17** Mohammad Amawi is interested in putting these pieces together.  
-08:-42:-07 **18** Well, by a year and a few months after the conversation we just  
-08:-42:-07 **19** heard, Mohammad Amawi has put more pieces of this bomb vest  
06:39:35 **20** video together. In other words, he's found more of the  
06:39:39 **21** components for the things that are missing from this. I'm  
-08:-42:-07 **22** going to show you that now, I hope. This is something else  
06:39:47 **23** that's on Mohammad Amawi's computer by a year and two months  
-08:-42:-07 **24** later. And you may recall that in the bomb vest video, there  
06:39:55 **25** were two sort of plugs sitting out of the side. And I believe

-08:-42:-07 **1** they were described by the explosives experts as the detonators.

-08:-42:-07 **2** One of the things you need to build a bomb is a detonator.

06:40:07 **3** That makes common sense. Plus the experts have testified about

-08:-42:-07 **4** that as well. And by a year and a couple months after the

06:40:16 **5** conversation we just heard on January 10, 2005, Mohammad Amawi

-08:-42:-07 **6** has this video on his computer as well. What else does he

-08:-42:-07 **7** have? Well, here it is. Actually, this is actually the file

-08:-42:-07 **8** that's on his computer from the file list. He also has found

06:40:34 **9** this video which shows you how to make black powder. You may

06:40:42 **10** recall this also from the testimony. Black powder was an

-08:-42:-07 **11** explosive and another component of making an explosive device or

06:40:50 **12** even a suicide bomb vest.

06:40:54 **13** Here again, this is where those files were on the

06:40:58 **14** computer that was recovered from Mohammad Amawi in February of

06:41:03 **15** '06.

06:41:07 **16** Here, by the way, is from -- I believe this is from

06:41:14 **17** Marwan El-Hindi's computer. And it shows you, you may recall,

-08:-42:-07 **18** the RealPlayer history. RealPlayer is a program that allows

-08:-42:-07 **19** you to play certain videos, and it keeps sort of a little record

-08:-42:-07 **20** of what it's played. It just so happened on November 9, 2005

-08:-42:-07 **21** or February 17 of 2006 -- so remember there was testimony about

06:41:37 **22** at least on those two dates, at least on those two dates Marwan

06:41:42 **23** El-Hindi actually accessed this particular file. So Marwan

06:41:47 **24** El-Hindi, who is at the moment, not by the time this is

06:41:51 **25** recovered from Mohammad Amawi's computer in Jordan, but at the

-08:-42:-07 **1** moment on January 10 of 2005, they have -- although they've been  
-08:-42:-07 **2** mentioned to each other, they don't know each other, but they  
-08:-42:-07 **3** actually have the same files on their computer, some of them.  
06:42:07 **4** And coincidentally, or not coincidentally, they relate to  
06:42:13 **5** explosives.  
06:42:17 **6** The next clip is 25-1. This is from January 10 as  
-08:-42:-07 **7** well.  
06:42:40 **8** (Audio is played.)  
06:42:52 **9** MR. SOFER: Okay. There Mohammad Amawi says that:  
06:43:01 **10** May Allah join us with you. And al-Zarqawi -- look at your  
06:43:06 **11** definitions -- is the head of Al-Qaeda in Iraq.  
06:43:12 **12** Now, on January 21, 2005, there was testimony from  
06:43:16 **13** Darren Griffin that Mohammad Amawi went shooting with him and  
-08:-42:-07 **14** others at Cleland's gun range. Now, these are some of the  
06:43:26 **15** records that were introduced into evidence that show that. I  
06:43:30 **16** want to say again, ladies and gentlemen, that shooting at a gun  
-08:-42:-07 **17** range is not illegal and not a crime. But if the purpose of  
06:43:38 **18** shooting at a gun range is to train for violent jihad, then that  
06:43:43 **19** is illegal, and, in fact, it's an overt act in furtherance of an  
06:43:49 **20** illegal conspiracy. And by this date it's clear why it is  
06:43:54 **21** Mohammad Amawi is training at Cleland's. There were other  
06:43:58 **22** people that went with them that day. And there's no evidence  
-08:-42:-07 **23** that any of those people have ever been charged. And again,  
06:44:08 **24** that's because Mohammad Amawi is different. The purpose of his  
-08:-42:-07 **25** training was different.

06:44:15 **1** Let's go to the next clip, January 28, 18 days  
06:44:21 **2** later. They're in Darren Griffin's car. And it's Darren  
-08:-42:-07 **3** Griffin and Mohammad Amawi. I believe it's 1-A-1.  
06:45:18 **4** (Audio is played.)  
06:45:20 **5** MR. SOFER: Put yourself in the place of the FBI  
06:45:23 **6** who are running the investigation who now learn Mohammad Amawi  
-08:-42:-07 **7** has access and has now translated a video that shows how to make  
-08:-42:-07 **8** a suicide bomb vest. They listened to some of the conversations  
-08:-42:-07 **9** that you heard today and that you heard before. And, of  
06:45:38 **10** course, they have guided their human source, Darren Griffin, to  
-08:-42:-07 **11** try to counsel Mohammad Amawi to be careful about this so that  
06:45:46 **12** he doesn't go off and do this by himself.  
06:45:50 **13** Play the next clip, please.  
06:46:27 **14** (Audio is played.)  
06:47:00 **15** MR. SOFER: Very clear here what these videos are  
-08:-42:-07 **16** for, what these manuals are for, as far as Darren Griffin.  
06:47:07 **17** Mohammad Amawi gives these things to Darren Griffin. Darren  
-08:-42:-07 **18** Griffin says, I'm going to use them to teach you mujahidin  
06:47:13 **19** tactics; that is people conducting holy war overseas. And I'm  
06:47:17 **20** going to show you a twist of U.S. tactics also, which we already  
-08:-42:-07 **21** know is the enemy, according to Mohammad Amawi, and Marwan  
06:47:27 **22** El-Hindi by this point, and also Wassim Mazloun.  
06:47:30 **23** Let's continue.  
06:47:33 **24** (Audio is played.)  
06:48:44 **25** MR. SOFER: There are a number of conversations

-08:-42:-07 **1** where it's clear from listening to them, and I hope that you  
-08:-42:-07 **2** were able to hear it when we presented our direct case, the  
-08:-42:-07 **3** government did, that Mohammad Amawi, he thinks this bomb vest  
06:48:59 **4** video is on a number of disks that he gave to Darren Griffin.  
06:49:02 **5** And he tried to give it to him; there's no question about it.  
-08:-42:-07 **6** But he did give it to him on January 10 when he actually  
-08:-42:-07 **7** downloaded, translated, and showed it to him.  
-08:-42:-07 **8** Now we've gotten to the point on the timeline that  
-08:-42:-07 **9** is critical. And that is of the connection between two  
06:49:24 **10** branches of the conspiracy. On February 2, 2005, Marwan  
06:49:30 **11** El-Hindi meets with Darren Griffin and Mohammad Amawi at  
-08:-42:-07 **12** Mohammad Amawi's apartment here in Toledo. Critically  
-08:-42:-07 **13** important because the two branches come together. The Judge has  
06:49:43 **14** instructed you on the law of conspiracy, which does not even  
-08:-42:-07 **15** require that all of the coconspirators know each other, much  
-08:-42:-07 **16** less meet together. On this date two people who have recruited  
06:49:56 **17** others -- Marwan El-Hindi, who had recruited Zubair and Khaleel  
06:50:00 **18** Ahmed; and Mohammad Amawi, who had recruited Wassim Mazloun --  
-08:-42:-07 **19** meet. And the reason they're meeting is made very clear from  
06:50:10 **20** their words and actions on this date. And we are only two  
-08:-42:-07 **21** weeks from the date where everybody sits down together at Marwan  
06:50:18 **22** El-Hindi's house on February 16. So let's start with this.  
-08:-42:-07 **23** And this is the first clip we're playing from this critical  
06:50:27 **24** meeting.  
06:50:28 **25** (Audio is played.)



06:51:00 **1** MR. SOFER: "And he's thinking of joining us."

-08:-42:-07 **2** Again, willful agreement, the willful entrance into an

-08:-42:-07 **3** agreement. Marwan El-Hindi is there; he hears that. Darren

06:51:15 **4** Griffin is trying to assure Mohammad Amawi that Marwan is a

06:51:19 **5** trusted person. And you're going to see that both Marwan

-08:-42:-07 **6** El-Hindi and Mohammad Amawi are fairly like-minded quickly.

06:51:34 **7** Let's play the next clip.

06:51:37 **8** (Audio is played.)

06:52:31 **9** MR. SOFER: There are those laptops in Syria.

06:52:34 **10** We're going to discuss them a little more. But right out of

-08:-42:-07 **11** the gate Amawi is talking about moving laptops to Syria for the

06:52:40 **12** brothers.

06:52:41 **13** Play the next clip.

06:52:43 **14** (Video is played.)

06:53:34 **15** MR. SOFER: A conversation mostly in Arabic between

06:53:39 **16** Marwan El-Hindi and Mohammad Amawi. What they're talking about

-08:-42:-07 **17** is in a bedroom in Toledo, Ohio. They are discussing these

06:53:45 **18** websites. Again, not, per se, a crime to have those

06:53:50 **19** discussions, but it shows you their intent, and it shows you

06:53:53 **20** their like-mindedness.

-08:-42:-07 **21** Let's continue.

06:54:34 **22** (Video is played.)

-08:-42:-07 **23** MR. SOFER: This is again a very important moment.

06:54:37 **24** In Arabic the first thing, sort of almost out of the blue,

06:54:41 **25** Marwan El-Hindi asks Mohammad Amawi: Do they have the videos

06:54:46 **1** for manufacturing? They're not talking about manufacturing  
-08:-42:-07 **2** cars. They're in the middle of watching a jihadist video.  
-08:-42:-07 **3** They are not talking about the manufacture of candy or flags.  
-08:-42:-07 **4** They're talking, I submit to you, ladies and gentlemen, the  
06:55:01 **5** government's evidence establishes they're talking about the bomb  
06:55:05 **6** vest video. And Marwan El-Hindi right away is asking a  
-08:-42:-07 **7** question about that without even having, at least as far as we  
06:55:13 **8** can tell, a conversation with Mohammad Amawi about it. But  
-08:-42:-07 **9** it's in Arabic, and it's not Darren Griffin leading this  
-08:-42:-07 **10** conversation in any way.  
06:55:24 **11** (Video is played.)  
06:56:05 **12** MR. SOFER: Ladies and gentlemen, they're talking  
-08:-42:-07 **13** about something that they know, they believe is illegal.  
-08:-42:-07 **14** Again, watching these videos, not illegal. Watching them with  
06:56:18 **15** a trainer from an ex-Special Forces soldier who you believe is  
06:56:22 **16** going to train you to go overseas and commit jihad, that is  
-08:-42:-07 **17** illegal. And Marwan El-Hindi, who's a fairly careful person --  
06:56:31 **18** if you listen throughout these recordings, he's constantly  
-08:-42:-07 **19** worried about whether somebody's watching him. Ask yourselves:  
-08:-42:-07 **20** Why that is?  
06:57:42 **21** (Video is played.)  
06:57:46 **22** MR. SOFER: Going back to something I said  
06:57:49 **23** earlier, ladies and gentlemen. They talked about Bin Laden, the  
-08:-42:-07 **24** head of Al-Qaeda, manufacturing bombs. Ask yourselves whether  
-08:-42:-07 **25** anybody who was not interested in receiving the kind of jihad

06:58:01 **1** training that these defendants have been charged with conspiring  
-08:-42:-07 **2** to receive, the kind of conspiracy to go overseas and kill  
06:58:12 **3** people, whether anyone who did not have that intent would have  
-08:-42:-07 **4** stayed in that room. He should have run, not walked, out of  
-08:-42:-07 **5** there. But he didn't. And what does that tell you about him?  
06:58:26 **6** Let's continue. In fact, he's going to explain in  
-08:-42:-07 **7** the next clip the fact that his own -- his own wife would have  
-08:-42:-07 **8** put him in jail had she seen this.  
06:58:38 **9** (Video is played.)  
06:59:34 **10** MR. SOFER: This is not the last time Marwan  
-08:-42:-07 **11** El-Hindi brags about the point his new wife would like to be  
-08:-42:-07 **12** involved in the jihad.  
-08:-42:-07 **13** Let's play the next clip.  
07:01:04 **14** (Video is played.)  
07:01:04 **15** MR. SOFER: Mohammad Amawi says in there: I would  
-08:-42:-07 **16** drink their blood. They are having a debate just like Wassim  
-08:-42:-07 **17** Mazloun and Mohammad Amawi had about who's innocent and who is  
-08:-42:-07 **18** not. The one thing they agree on is military -- actually, in  
-08:-42:-07 **19** this particular conversation Marwan El-Hindi seems to be taking  
-08:-42:-07 **20** the more extreme position that innocent people, in the context  
-08:-42:-07 **21** that Mohammad Amawi is referring to them, are fair game.  
07:01:28 **22** Nevertheless, the argument they're having is about a very small  
07:01:31 **23** sliver of murder and killing. They agree on the main point.  
07:01:38 **24** Let's continue.  
07:01:41 **25** (Video is played.)

07:02:07 **1** MR. SOFER: Again, the context of this  
-08:-42:-07 **2** conversation has to be clear. They just got finished talking  
-08:-42:-07 **3** about building bombs. They just got finished talking about  
07:02:16 **4** Iraq and killing people overseas. And now Marwan El-Hindi  
07:02:22 **5** suggests a place that they could train. This is not some  
07:02:27 **6** innocent kind of training. This is training related to the  
-08:-42:-07 **7** rest of the conversation. Again, I ask you, ladies and  
07:02:33 **8** gentlemen: When you consider the evidence, when you consider  
07:02:35 **9** the statements, you have to put them in the context of the  
-08:-42:-07 **10** bigger conversation that's being had.  
07:02:41 **11** Let's go to the next one.  
07:03:10 **12** (Video is played.)  
07:03:10 **13** MR. SOFER: Someone's shooting down a helicopter.  
-08:-42:-07 **14** In the video they're saying, "God is great." Marwan El-Hindi  
07:03:16 **15** is saying, "God is great," from Toledo, Ohio. And Mohammad  
-08:-42:-07 **16** Amawi has got a huge grin on his face over this, and is very  
-08:-42:-07 **17** much enjoying this.  
07:03:53 **18** (Video is played.)  
07:04:15 **19** MR. SOFER: Let's go to the next one.  
07:04:18 **20** (Video is played.)  
07:04:29 **21** MR. SOFER: There's a mortar. When they're  
-08:-42:-07 **22** talking about mortars, and you can see Darren Griffin will talk  
-08:-42:-07 **23** about standoff weapons. You can see, once again, Mohammad  
-08:-42:-07 **24** Amawi: I want to learn this; constantly saying those kind of  
-08:-42:-07 **25** things to Darren Griffin. Darren Griffin can provide him with

-08:-42:-07 **1** that kind of training. And Marwan El-Hindi is sitting there  
07:04:47 **2** listening to this exact same conversation. Let's continue.  
07:04:52 **3** (Video is played.)  
07:05:22 **4** MR. SOFER: You heard Marwan El-Hindi say "hound"  
07:05:26 **5** in there. That's in your definitions also. It's a type of  
-08:-42:-07 **6** mortar. Marwan El-Hindi already knows what this is, and he  
-08:-42:-07 **7** knows the name for it, a special kind of name for it. It  
07:05:38 **8** relates to -- I think your definitions will control. I think  
-08:-42:-07 **9** it's a Soviet piece of machinery. Either way, he understands  
-08:-42:-07 **10** exactly what they're talking about here.  
07:05:48 **11** Let's continue.  
07:06:39 **12** (Video is played.)  
07:06:39 **13** MR. SOFER: Now they talk about martyrdom  
-08:-42:-07 **14** operation. Again, Marwan El-Hindi sits there. He listens to  
-08:-42:-07 **15** this. He participates in the conversation. It shows you a  
07:06:48 **16** meeting of their minds.  
07:06:50 **17** Let's continue.  
07:07:53 **18** (Video is played.)  
07:07:53 **19** MR. SOFER: Marwan El-Hindi says, at least 40  
07:07:59 **20** soldiers in it.  
07:08:05 **21** We played this one twice, I think. But the  
07:08:09 **22** question you should ask yourselves is: After hearing the  
-08:-42:-07 **23** discussion and participating in the discussion about martyrdom,  
07:08:17 **24** shooting down a plane full of soldiers, hearing Mohammad Amawi  
-08:-42:-07 **25** talk about drinking blood, what does Marwan El-Hindi do? Does

-08:-42:-07 **1** he run out of this room? Does he call the FBI? No. He

07:08:35 **2** invites Mohammad Amawi over to his house. And that's what

-08:-42:-07 **3** you're going to see and hear.

-08:-42:-07 **4** (Video is played.)

-08:-42:-07 **5** MR. SOFER: This is not the first time after

07:09:02 **6** seeing and hearing things like this Marwan El-Hindi continues to

-08:-42:-07 **7** interact with people. You heard testimony about this piece of

-08:-42:-07 **8** evidence here, which is a device to kill tanks and the people

-08:-42:-07 **9** inside them. And the evidence is that Marwan El-Hindi saw that

-08:-42:-07 **10** Darren Griffin had this. Again, did this discourage him from

07:09:31 **11** interacting with Darren Griffin? No, it only made his

07:09:34 **12** interaction more enthusiastic, ladies and gentlemen.

07:09:45 **13** Let's go to four days later in Mohammad Amawi's

07:09:49 **14** apartment.

07:09:50 **15** (Audio is played.)

07:10:48 **16** MR. SOFER: What this conversation shows is Wassim

07:10:50 **17** Mazloun came over to Mohammad Amawi's home. This happened

-08:-42:-07 **18** without Darren Griffin there, and they talked. So they already

-08:-42:-07 **19** discussed the training. The government would submit that's the

07:11:02 **20** reasonable inference from that piece of evidence. Let's

07:11:07 **21** continue with this conversation on February 6.

07:11:55 **22** (Audio is played.)

07:11:55 **23** MR. SOFER: Here Mohammad Amawi is asking whether

07:11:59 **24** Brother Marwan is going to be coming. So now that connection

-08:-42:-07 **25** is firmly made in Mohammad Amawi's mind.

-08:-42:-07 **1** And let's continue to the next.

07:12:14 **2** (Audio is played.)

07:12:34 **3** MR. SOFER: You hear the clicking of the gun in

07:12:36 **4** this particular recording.

07:12:47 **5** (Audio played.)

07:13:03 **6** MR. SOFER: So Darren Griffin is actually training

-08:-42:-07 **7** Mohammad Amawi. He's not training him on something

07:13:08 **8** particularly exciting, but he's training how to make sure when

-08:-42:-07 **9** you draw your weapon you don't give your position away.

07:13:18 **10** Let's go to the next one.

-08:-42:-07 **11** (Audio is played.)

-08:-42:-07 **12** MR. SOFER: He's talking about weapons he's going

-08:-42:-07 **13** to see there. "There", the evidence shows, ladies and

-08:-42:-07 **14** gentlemen, is Iraq. That becomes even clearer later. And

07:13:49 **15** Darren Griffin explains to Mohammad Amawi that part of the

07:13:53 **16** training is going to be to introduce them to the kinds of

07:13:57 **17** weapons that they're likely to encounter in Iraq.

07:14:01 **18** Let's go to the next one.

07:14:10 **19** (Audio is played.)

07:14:50 **20** MR. SOFER: Can you all see the rest of that

-08:-42:-07 **21** transcript down at the bottom? We won't play the rest of the

-08:-42:-07 **22** tape. You see Mohammad Amawi is talking about getting a gun

-08:-42:-07 **23** onto an airplane. And at the bottom he pretty much tells you

-08:-42:-07 **24** where that airplane is likely to head. If you go to Jordan,

-08:-42:-07 **25** they will think you are taking aluminum, so you can surround the

-08:-42:-07 **1** gun with aluminum foil so you can't tell it's a gun by looking  
07:15:18 **2** at it on an x-ray machine. It shows you his intent, his intent  
-08:-42:-07 **3** to travel overseas with weapons, to travel to Jordan with  
-08:-42:-07 **4** weapons. Jordan is the place he had been previously and had  
07:15:29 **5** entered Iraq from there, or at least attempted to enter Iraq  
-08:-42:-07 **6** from there.  
07:15:34 **7** Let's go to the next one.  
07:15:34 **8** (Audio is played.)  
07:15:38 **9** MR. SOFER: On this particular day, ultimately  
-08:-42:-07 **10** Darren Griffin gets two disks from Mohammad Amawi, and one of  
-08:-42:-07 **11** those disks contains particular files on it which are the  
07:15:52 **12** subject of one or the other distribution counts. So we've gone  
-08:-42:-07 **13** through the first distribution count, which was the bomb vest  
07:15:59 **14** video, which was accessed, translated, and shown to Darren  
07:16:03 **15** Griffin by Mohammad Amawi on January 10.  
-08:-42:-07 **16** This is February 6. And this is the explosives  
07:16:10 **17** cookbook which you've heard about. The file name which you  
-08:-42:-07 **18** heard testimony about is "sensitive or stimulating materials."  
07:16:16 **19** There's actually two files. The other one is called  
-08:-42:-07 **20** "Introduction to Cake". One is a six-page document; one's a  
-08:-42:-07 **21** three-page document. Here's where it's contained, two discs  
07:16:27 **22** that was given to Darren Griffin. Here's the actual document  
-08:-42:-07 **23** on the left, and the translation on the right. I don't know if  
07:16:36 **24** we can enlarge a little bit of that translation. Can you see  
-08:-42:-07 **25** that?



07:16:41 **1** And you heard testimony from FBI explosives experts  
-08:-42:-07 **2** about whether or not this material was, in fact, explosives.  
07:16:53 **3** And they testified -- that is, Kelly Mount testified in her  
07:16:56 **4** opinion that it was. This is the second file. This is that  
-08:-42:-07 **5** three-page document. I think we have a photo, a slide of it in  
07:17:06 **6** Arabic. And the translation and the opinion testimony was the  
07:17:13 **7** same about this document.

07:17:20 **8** Now, a couple things. How do you know that this  
-08:-42:-07 **9** was given to Darren Griffin with the intent? Again, giving  
-08:-42:-07 **10** somebody a disk that has bomb making materials on it is not in  
-08:-42:-07 **11** and of itself a crime. As unpleasant as that might be to some  
-08:-42:-07 **12** of us, that kind of material can be so widely available it's not  
-08:-42:-07 **13** a crime in the United States to do that. It's only a crime to  
-08:-42:-07 **14** do that if you have the intent that the person that you're  
-08:-42:-07 **15** giving it to is going to use it in furtherance of a crime of  
07:17:51 **16** violence. And I'm paraphrasing a little bit. I'll go through  
-08:-42:-07 **17** the actual elements before I'm done.

07:17:57 **18** A couple ways that you know that that's true here:  
-08:-42:-07 **19** One is all of the other evidence that you've heard up until this  
07:18:04 **20** point erases any doubt in your mind that when Amawi gives these  
-08:-42:-07 **21** things to Darren Griffin, he's doing it in order to assist  
-08:-42:-07 **22** Darren Griffin in the training, and the training is jihad  
-08:-42:-07 **23** training, and that this is all being done in furtherance of a  
07:18:25 **24** federal crime of violence.

07:18:27 **25** The other way you know is look at this disk. This

07:18:39 1 file didn't sit on there alone. I'm not going to go through  
07:18:45 2 everything on this disk. Certainly not everything on here is  
07:18:55 3 indicative of some sort of violence, but there was plenty that  
07:19:06 4 is. There's a file directory that is called "Jihad". And  
07:19:10 5 we've just highlighted a couple of the files that are on there:  
07:19:10 6 Belongings of one of the dead infidels; destruction of tank;  
07:19:10 7 bodies flying; Shaykh Bin Laden; Iraqi sniper. You've actually  
07:19:10 8 seen some of these videos. Then there are military lessons  
07:19:10 9 from al-Batar. It includes the athletic course for the  
07:19:10 10 mujahidin; Introduction to the weapon of signals; Introduction  
07:19:10 11 of guerilla warfare; Urban warfare, defense and offense;  
07:19:10 12 Introduction to the weapon of electronic navigation. Take a  
07:19:10 13 look at what else is there. That's how you know what the  
07:19:10 14 intent was of giving this to Darren Griffin.  
07:19:10 15 But you knew already because you already listened  
07:19:10 16 to enough recorded information which answered that question.  
07:19:10 17 In any event, this is Count 4 of the indictment.  
07:19:10 18 One of the disks that was given to Darren Griffin on this day by  
07:19:10 19 Mohammad Amawi had a blue star on it. You probably remember  
07:19:10 20 that testimony. And, in fact, when this disc was ultimately  
07:19:10 21 recovered later on in the case, after or right before the case  
07:19:10 22 was actually over, one of the disks that Darren Griffin found  
07:19:10 23 and turned over to the FBI had a blue star on it.  
07:19:10 24 Let's continue.  
07:19:10 25 The next clip that we have is actually the fifth

-08:-42:-07 **1** charge that you've been asked to consider. And this is Marwan  
07:20:41 **2** El-Hindi distributing the bomb vest video to Darren Griffin.  
-08:-42:-07 **3** This is on February 8 inside Marwan El-Hindi's home on Mayo  
07:20:56 **4** Street.  
-08:-42:-07 **5** Before we play this, you heard a lot of testimony  
-08:-42:-07 **6** about the fact that the FBI and Darren Griffin were having a  
07:21:01 **7** great deal of trouble actually getting their hands on this  
07:21:04 **8** actual file there, for all kind of different reasons that are  
07:21:08 **9** actually explained, if you listen carefully to the recordings.  
-08:-42:-07 **10** Programs to extract certain kinds of files, they were having  
-08:-42:-07 **11** troubles with; that is, the Defendant Mohammad Amawi was having  
-08:-42:-07 **12** trouble with that. They were having troubles downloading these  
-08:-42:-07 **13** programs sometimes with the disks.  
-08:-42:-07 **14** So the FBI takes these disks. They can't get the  
07:21:28 **15** bomb vest video; they can't find it, or they can't access it.  
-08:-42:-07 **16** Likewise, Mohammad Amawi and Darren Griffin were having issues  
-08:-42:-07 **17** about who could access what because Darren Griffin's computer  
-08:-42:-07 **18** didn't have the right programs on it. There's plenty of  
-08:-42:-07 **19** evidence of that in the recordings.  
-08:-42:-07 **20** Ultimately, though, the person that got this file  
07:21:45 **21** to Darren Griffin, and it happens on this day, is Marwan  
07:21:49 **22** El-Hindi. And by getting it from Marwan El-Hindi, ultimately  
07:21:53 **23** Darren Griffin is able to get it to the FBI. So let's play  
-08:-42:-07 **24** this.  
07:22:14 **25** (Audio is played.)

07:23:33 **1** MR. SOFER: You could tell, ladies and gentlemen,  
-08:-42:-07 **2** because you watched this video at least a couple times, that  
07:23:37 **3** Marwan El-Hindi knows what he's talking about. He's seen this  
07:23:40 **4** thing because he's talking about what we've all seen watching  
07:23:43 **5** the bomb vest video about the shrapnel. And he calls them the  
-08:-42:-07 **6** little things or the little square or the round. He's talking  
-08:-42:-07 **7** about those round things that were in the picture that we showed  
-08:-42:-07 **8** you a few moments ago and that you saw on the bomb vest video.  
07:23:57 **9** Let's continue this.  
07:23:59 **10** (Audio is played.)  
07:24:23 **11** MR. SOFER: "Better tell Mohammad." And at this  
-08:-42:-07 **12** juncture, after having already been at Mohammad's house, he  
07:24:31 **13** knows -- that is, Marwan El-Hindi knows what Mohammad Amawi  
-08:-42:-07 **14** wants to do. And he's now helping Darren Griffin, at the very  
07:24:40 **15** least, help Mohammad Amawi.  
07:24:45 **16** Let's continue.  
07:25:06 **17** (Audio is played.)  
-08:-42:-07 **18** MR. SOFER: You can't get any clearer about this.  
07:25:09 **19** Darren Griffin tells Marwan El-Hindi that we're going to train,  
-08:-42:-07 **20** and I'm going to teach stuff that the mujahidin are doing. And  
-08:-42:-07 **21** does Marwan El-Hindi run out of the room or tell this man get  
07:25:20 **22** out of his house? No. He said, Even the way they slaughter,  
-08:-42:-07 **23** see how fast they do it? Again, ladies and gentlemen, the  
-08:-42:-07 **24** reasonable, common-sense conclusion, we're not talking about  
07:25:30 **25** slaughtering goats here. These are holy warriors in mujahidin.

07:25:35 **1** They're talking about slaughtering people. They're talking  
-08:-42:-07 **2** about cutting human beings' heads off.  
07:25:40 **3** Let's continue.  
07:26:31 **4** (Audio is played.)  
07:26:31 **5** MR. SOFER: "Tea or coffee." The thing they're  
-08:-42:-07 **6** talking about, when you discuss what the U.S. Army is most  
07:26:40 **7** afraid of in Iraq, the fact that they're being killed by  
-08:-42:-07 **8** snipers. Here Mohammad wants to hook up with the mujahidin.  
07:26:48 **9** Again, Marwan El-Hindi: Not, "get out of my house;" not, "what  
-08:-42:-07 **10** are you talking about?" Instead, he then immediately brings up  
-08:-42:-07 **11** the fact that what the U.S. Army is most afraid of are snipers.  
07:28:28 **12** (Audio is played.)  
07:28:28 **13** MR. SOFER: Are you with us or not? Are you with  
07:28:31 **14** us or not? Again, an agreement, a conspiracy. Are you with us  
07:28:35 **15** or not?  
07:28:37 **16** And it's Marwan El-Hindi that brings up Zubair in a  
-08:-42:-07 **17** context of a conversation that you just have heard portions of  
07:28:47 **18** about sniping U.S. military forces and Darren Griffin teaching  
07:28:51 **19** mujahidin tactics. Are you with us or not?  
07:29:29 **20** (Audio is played.)  
07:30:07 **21** MR. SOFER: Listen to Marwan El-Hindi find the  
-08:-42:-07 **22** paper.  
07:30:19 **23** (Audio is played.)  
07:30:29 **24** MR. SOFER: The paper is a Masada website which  
-08:-42:-07 **25** you've heard so much about which was the way ultimately that

07:30:37 **1** Marwan El-Hindi was able to access the bomb vest video, which  
-08:-42:-07 **2** was the way ultimately, after he gave this paper to Darren  
-08:-42:-07 **3** Griffin, Darren Griffin was able to access the bomb vest video,  
-08:-42:-07 **4** which is the way the FBI was able to access the bomb vest video,  
-08:-42:-07 **5** which is the way you were able to actually watch it here in  
07:30:54 **6** court.

-08:-42:-07 **7** I know this has been a very bad exhibit the whole  
-08:-42:-07 **8** time. We can never see it. It hasn't gotten much better.

-08:-42:-07 **9** We'll turn on the giant fuzz maker there, the static maker. We  
-08:-42:-07 **10** could probably fix it. You've seen it a number of times.

07:31:11 **11** You've seen the translated version. Also this is the Masada web  
-08:-42:-07 **12** page.

07:31:44 **13** You may recall this particular document was printed

-08:-42:-07 **14** out from a few days earlier. And on it it had under the user,

-08:-42:-07 **15** Bilal, which was Darren Griffin's name that he used for his job.

-08:-42:-07 **16** And you can actually hear them laughing about this. And again,

-08:-42:-07 **17** ladies and gentlemen, the common sense and reasonable inference

-08:-42:-07 **18** is that Marwan El-Hindi used Bilal Griffin, the name, when he

07:32:11 **19** signed in to this particular page. And there are other things

-08:-42:-07 **20** which we're about to go through which support that and

07:32:17 **21** corroborate it.

07:32:19 **22** Your Honor, I'm going to ask that we take a brief

-08:-42:-07 **23** break if that's acceptable.

-08:-42:-07 **24** THE COURT: Sure. We'll take about a ten-minute

-08:-42:-07 **25** break or so.

07:32:57 **1** (Recess taken.)

07:49:08 **2** THE COURT: You may resume, Mr. Sofer. There will

07:49:14 **3** be a slight interruption to switch over court reporters.

07:49:20 **4** MR. SOFER: Can you remind me how long we'll go

07:49:24 **5** this evening?

07:49:25 **6** THE COURT: I'd like to go until 6:00 or 7:00, if

-08:-42:-07 **7** we can get you done or almost done.

-08:-42:-07 **8** MR. SOFER: Understood. So if the jury's willing

-08:-42:-07 **9** to stay...

07:49:43 **10** Where were we? We were on February 8, 2005.

07:49:43 **11** (Audio is played.)

07:49:48 **12** MR. SOFER: And this was the clip where Marwan

07:49:53 **13** El-Hindi said, "This is the one that did it." Darren Griffin

-08:-42:-07 **14** said, "Me," and laughed. At the end of this you can see -- I

07:50:00 **15** won't play the rest of it. El-Hindi says: He's going through

-08:-42:-07 **16** to automatic. My password, see right there. It's me who's in

-08:-42:-07 **17** there. He says: Okay, I think this one where it has how to

-08:-42:-07 **18** make it. So he's guided Darren Griffin through this site.

07:50:22 **19** Let's play the next clip which is, I think, 383.

07:51:04 **20** (Audio is played.)

07:51:21 **21** MR. SOFER: Keep in mind the FBI and thus Darren

07:51:24 **22** Griffin are very interested in getting a copy of this for what

-08:-42:-07 **23** should be obvious reasons. The actual construction of a

07:51:32 **24** suicide bomb vest under the circumstances here were of great

-08:-42:-07 **25** concern to the FBI. And you heard Agent Shannon Coats testify

-08:-42:-07 **1** about that.

-08:-42:-07 **2** Now, right there you heard Marwan El-Hindi say:

-08:-42:-07 **3** Now we are taking applications, but for a small period of time.

-08:-42:-07 **4** The document that Darren Griffin actually received from Marwan

07:51:55 **5** El-Hindi says something very similar to that, not surprisingly,

07:51:58 **6** because the government submits Darren Griffin was telling you

-08:-42:-07 **7** the truth when he said he got this document from Marwan El-Hindi

-08:-42:-07 **8** on that day. And it says on the bottom: You can see, my

07:52:07 **9** brothers, we are reopened, the registration in the forums again,

-08:-42:-07 **10** and for a temporary period based on your requests.

07:52:14 **11** Let's continue.

07:52:23 **12** (Audio is played.)

07:52:54 **13** MR. SOFER: You can see here Darren Griffin again

-08:-42:-07 **14** being guided through and saying he's been having troubles with

-08:-42:-07 **15** Mohammad Amawi, who Marwan El-Hindi has now met and discussed

-08:-42:-07 **16** the jihad training with. And here he says: Me and Mohammad

07:53:10 **17** are having that problem of trying to download it on his PC, you

-08:-42:-07 **18** know, to the disk. So Marwan El-Hindi knows that Mohammad

-08:-42:-07 **19** Amawi has been -- and Darren Griffin have had trouble getting

07:53:23 **20** their hands on this particular file.

-08:-42:-07 **21** Let's continue.

07:54:26 **22** Here the bomb vest video and the Masada website

07:54:31 **23** are mostly in Arabic. But -- and El-Hindi understands this

-08:-42:-07 **24** also. He says: That's right, you're military. You don't

07:54:40 **25** need to be a fluent speaker in Arabic to understand what's being



-08:-42:-07 **1** depicted in that bomb vest video. It didn't have to be in  
-08:-42:-07 **2** English for you to understand a lot of it. It's a piece of the  
07:54:51 **3** puzzle. Again, keep in mind that the statute that you're being  
-08:-42:-07 **4** asked to consider says in whole or in part; it does not require  
-08:-42:-07 **5** the full explanation of -- from soup to nuts on how to build a  
-08:-42:-07 **6** particular kind of destructive device or explosive.

07:55:11 **7** Let's continue.

07:55:11 **8** (Audio is played.)

-08:-42:-07 **9** MR. SOFER: Here at the end, Darren Griffin, I  
07:55:29 **10** definitely got to go now because I want to go download this.  
07:55:32 **11** This has been something that the FBI and Darren Griffin have  
-08:-42:-07 **12** been trying to get their hands on for some time now. Marwan  
07:55:39 **13** El-Hindi made it happen. He finished that chain. He  
07:55:44 **14** distributed it via this Masada web page which allowed Darren  
-08:-42:-07 **15** Griffin to actually go down to it. And he also played it for  
-08:-42:-07 **16** them -- on this date played them a short part of it, but he  
-08:-42:-07 **17** played it for them on that day.

-08:-42:-07 **18** Let's continue.

07:56:14 **19** (Audio is played.)

07:56:16 **20** MR. SOFER: Again, if you have any doubt about  
07:56:18 **21** whether this is the same audio from this video, please ask to  
-08:-42:-07 **22** play them. We'll play them side-by-side. We're not going to  
-08:-42:-07 **23** do that here today, but if you have any doubt about that, please  
07:56:29 **24** send a note out and request that you be given access to these  
-08:-42:-07 **25** recordings. Okay. Let's continue with a little bit.

07:57:13 **1** (Audio is played.)

07:57:14 **2** MR. SOFER: Let's go to the next one.

07:57:14 **3** (Audio is played.)

07:57:17 **4** MR. SOFER: This is the subject, as I say, of Count

-08:-42:-07 **5** 5, the fifth charge that you're being asked to consider. And

07:57:23 **6** we've broken this up into two slides; one relatively easy, and

-08:-42:-07 **7** one somewhat challenging. The computer forensic evidence is

07:57:35 **8** not easy, ladies and gentlemen. And I'm going to take you

-08:-42:-07 **9** through it a little bit, but certainly not in the detail we did

-08:-42:-07 **10** here in court. Again, if you have any questions about this,

-08:-42:-07 **11** you're looking for the small pieces of evidence, the

-08:-42:-07 **12** corroboration of what Darren Griffin told you, and the

07:57:54 **13** corroboration and the explanation for how it is that we know

-08:-42:-07 **14** these things, you can ask to either reread testimony or see

07:58:01 **15** particular documents. I'm going to take you through this now

-08:-42:-07 **16** very quickly, both to keep us here not until all hours of the

07:58:10 **17** morning, but also because you have access to this as you

07:58:13 **18** commence your deliberations.

07:58:14 **19** THE COURT: Can I interrupt? Go ahead, Mr. Sofer.

-08:-42:-07 **20** MR. SOFER: There's the complicated one. Let's

-08:-42:-07 **21** start with the simple one. Marwan El-Hindi accessed the bomb

07:58:48 **22** vest video on February 5, 2005. That's the date that is on the

-08:-42:-07 **23** printed out Masada web page. Remember in the recording Marwan

-08:-42:-07 **24** El-Hindi said you can hear the papers shuffling around. He

-08:-42:-07 **25** said: I have paper around here. This paper was given to

-08:-42:-07 **1** Darren Griffin. That's what the evidence shows. And, in  
-08:-42:-07 **2** fact, Marwan El-Hindi did access the bomb vest video on February  
07:59:09 **3** 5. This is based on Joe Corrigan, an FBI computer forensics  
07:59:19 **4** employee's testimony; Robert Antoon, who translated this  
07:59:24 **5** hahhey.ram video, which we'll discuss in a minute; and Evan  
07:59:29 **6** Kohlmann, who talks about the Masada web page was password-  
07:59:34 **7** protected in approximately February of 2005. Basically all  
-08:-42:-07 **8** this evidence establishes both that the web page, which are the  
07:59:41 **9** two pages from the Masada web page, were authentic and were  
-08:-42:-07 **10** given to Darren Griffin on February 8 by Marwan El-Hindi. Now  
-08:-42:-07 **11** comes the more complicated variety of this. This is somewhat  
07:59:54 **12** difficult to see. But let me see if I can explain it as best  
-08:-42:-07 **13** as I can.

-08:-42:-07 **14** What I've circled in red here is something which  
-08:-42:-07 **15** ends -- I don't know how well you can see it. I can't see it  
08:00:14 **16** too well. Take off your headphones. This may help a little  
08:00:38 **17** bit.

08:00:38 **18** This, what I'm circling here, actually comes from  
-08:-42:-07 **19** the page that is -- it's the second page of the Masada website.  
08:00:50 **20** That's a ZIP file. Inside that ZIP file is contained this file  
08:00:58 **21** here, hahhey.ram. You had the testimony of Robert Antoon that  
08:01:11 **22** hahhey.ram is, in fact, the bomb vest video.

08:01:21 **23** When we look at the RealPlayer history of Marwan  
-08:-42:-07 **24** El-Hindi, we can see that Marwan El-Hindi on February 5 of 2005  
08:01:33 **25** accessed or played -- I don't know what the testimony was

-08:-42:-07 **1** exactly, but either accessed or played, probably both, the  
08:01:40 **2** hahhey file. So you know, and this was independent by way of  
-08:-42:-07 **3** Darren Griffin, that Marwan El-Hindi watched the bomb vest video  
-08:-42:-07 **4** or accessed it on February 5, 2005, which would be consistent  
08:01:57 **5** with the fact that he printed out the Masada web page, which is  
-08:-42:-07 **6** the place that he was able to find access to this particular  
-08:-42:-07 **7** video, and it's consistent then with Darren Griffin's testimony.  
-08:-42:-07 **8** This is a piece of corroboration of what Darren Griffin told  
-08:-42:-07 **9** you.  
-08:-42:-07 **10** Now, of course, all of the recordings, many of the  
08:02:16 **11** recordings corroborate what Darren Griffin told you. His  
08:02:20 **12** testimony is supported by what's actually in the recordings.  
08:02:23 **13** Here's other independent evidence of what he told you was  
08:02:27 **14** accurate. More importantly, it's independent evidence of what  
-08:-42:-07 **15** Marwan El-Hindi was doing when Darren Griffin wasn't even  
-08:-42:-07 **16** around, and he was accessing the bomb vest video. But you knew  
-08:-42:-07 **17** that already. Because in the recordings, you can hear that  
08:02:40 **18** Marwan El-Hindi knows about the bomb vest video; he knows about  
-08:-42:-07 **19** it before it's played, at least in the recordings, and he says  
-08:-42:-07 **20** something to Mohammad Amawi in one of the conversations which we  
-08:-42:-07 **21** played which says: Have you seen the video for the manufacture  
08:02:55 **22** or not?  
08:02:59 **23** I think -- let me go to the next line.  
-08:-42:-07 **24** Here's another way that you know that Marwan  
-08:-42:-07 **25** El-Hindi is connected to both the bomb vest video and also that

08:03:11 **1** piece of paper, the Masada web page. He has in his e-mail  
08:03:19 **2** folder the actual -- an actual e-mail from the Masada web page.  
-08:-42:-07 **3** And when he accessed it, it left a little calling card, also  
08:03:34 **4** known as a cookie, on his computer. So you can see that he  
08:03:40 **5** accessed this particular file, and you can see at least some  
-08:-42:-07 **6** information about when.  
08:03:48 **7** Let's go to the next file.  
08:03:56 **8** In the recordings that are played on this day, you  
-08:-42:-07 **9** can hear Marwan El-Hindi and Darren Griffin discussing also  
08:04:07 **10** wansan, which is another way that you know this is what they  
-08:-42:-07 **11** were talking about on this particular day. This is the second  
-08:-42:-07 **12** page of the Masada web page, although it is an English  
08:04:24 **13** translation. It's very clear what is happening here. It's  
08:04:28 **14** learn by pictures and video how to make an explosive. There's  
-08:-42:-07 **15** your Martyrdom Operation Vest Preparation, clearly laid out.  
08:04:42 **16** Again, here's something else a number of the defendants discuss:  
-08:-42:-07 **17** Learn how not to sacrifice your honor and how to get revenge for  
08:04:51 **18** Fatimah. You remember there was a Sister Fatimah who was held  
-08:-42:-07 **19** in Abu-Ghraib prison in Iraq and was imploring the Jihadists or  
-08:-42:-07 **20** the Mujahidin to come attack the facility.  
08:05:06 **21** Let's continue.  
08:05:11 **22** Again, how did Marwan El-Hindi actually distribute  
-08:-42:-07 **23** this bomb vest video? He both accessed the video through a  
-08:-42:-07 **24** secure website and showed it to Darren Griffin, and he gave the  
08:05:21 **25** document that Darren Griffin ultimately was able to use, which

08:05:27 **1** essentially was a roadmap to how to actually obtain this file.

08:05:35 **2** Let's continue.

08:05:56 **3** (Audio is played.)

08:06:12 **4** MR. SOFER: This is the next day. This is

-08:-42:-07 **5** Marwan's home. And what this is going to show you, ladies and

-08:-42:-07 **6** gentlemen, is that Marwan really tried hard without Darren

-08:-42:-07 **7** Griffin there to get to the bomb vest video, and that he took it

-08:-42:-07 **8** off of his computer because he was scared. Again, he knows

-08:-42:-07 **9** what the purpose of giving this to Darren Griffin was. He also

-08:-42:-07 **10** went to the RealPlayer, which is important because I -- again,

08:06:41 **11** it's further corroboration he used RealPlayer to, in fact, play

-08:-42:-07 **12** the bomb vest video.

-08:-42:-07 **13** Let's play it.

08:07:46 **14** (Audio is played.)

08:07:46 **15** MR. SOFER: It may not have been the bomb vest

-08:-42:-07 **16** video, but it's some other kind of training video or video like

-08:-42:-07 **17** the bomb vest video that he was trying very hard to get his

-08:-42:-07 **18** hands on.

-08:-42:-07 **19** Let's continue.

08:08:32 **20** (Audio is played.)

08:08:32 **21** MR. SOFER: That conversation continued on

-08:-42:-07 **22** February 9 of '05.

-08:-42:-07 **23** Let's play that clip.

08:08:38 **24** (Audio is played.)

08:08:45 **25** MR. SOFER: They're in the car here. Marwan

-08:-42:-07 **1** El-Hindi is the one who brings up out of the blue snipers here.

08:10:37 **2** By the way, they're on their way to AZ Travel to go see Mohammad

-08:-42:-07 **3** Amawi.

08:10:42 **4** Let's play the next one.

08:10:45 **5** (Audio is played.)

08:12:05 **6** MR. SOFER: Like Mohammad Amawi, Marwan El-Hindi

08:12:09 **7** laughs about killing people who have come to rescue other people

-08:-42:-07 **8** that have been shot by snipers.

08:12:17 **9** Let's go to the next clip.

08:12:17 **10** (Audio is played.)

-08:-42:-07 **11** MR. SOFER: Again, they're still on their way to

-08:-42:-07 **12** Mohammad Amawi's place of business.

08:13:39 **13** (Audio is played.)

08:13:40 **14** MR. SOFER: Again, a description of the difference

-08:-42:-07 **15** between holy warriors or Mujahidin and the perceived perception

-08:-42:-07 **16** of an American troop, and this sounds much like what Mohammad

08:13:54 **17** Amawi was saying. Again, it shows his intent and the fact that

-08:-42:-07 **18** they have and will have -- they've already had by this point but

-08:-42:-07 **19** will have even clearer come to an agreement on February 16 of

-08:-42:-07 **20** '05.

08:14:10 **21** Let's continue to the next clip.

08:14:20 **22** (Audio is played.)

08:15:04 **23** MR. SOFER: Very clearly this last clip Darren

-08:-42:-07 **24** Griffin tells Marwan El-Hindi: I'm going to train you on U.S.

-08:-42:-07 **25** tactics. And here very clearly he's going to train him on

08:15:14 **1** observing Mujahidin tactics; the same thing that they discussed,  
08:15:19 **2** he discussed with Mohammad Amawi and Wassim Mazloun, and the  
08:15:23 **3** same thing that's going to be discussed again with everybody on  
-08:-42:-07 **4** February 16.  
08:15:28 **5** Continue.  
08:15:58 **6** (Audio is played.)  
08:15:58 **7** MR. SOFER: Again, Marwan El-Hindi bragging about  
-08:-42:-07 **8** his new wife who is basically saying: Why are we staying here  
08:16:06 **9** in the United States? Let's go where you should be going, over  
-08:-42:-07 **10** there where the fight is.  
-08:-42:-07 **11** Continue.  
08:16:44 **12** (Audio is played.)  
08:16:45 **13** MR. SOFER: "I wanted to die over there." It may  
-08:-42:-07 **14** have been Marwan El-Hindi saying he wanted to die over there,  
-08:-42:-07 **15** may have been his wife. It seems fairly clear. Obviously, it  
08:16:54 **16** will be your judgment whether that's Marwan El-Hindi saying I  
-08:-42:-07 **17** want to die over there or whether it's his wife. Either way,  
-08:-42:-07 **18** you can see Darren Griffin is doing what he's supposed to and  
08:17:05 **19** saying: Don't do that yet; you're not trained; you're not  
-08:-42:-07 **20** ready; you're just a burden. It's the same thing we've heard  
-08:-42:-07 **21** over and over again from the defendants, and Darren Griffin is  
08:17:14 **22** echoing it again.  
08:17:30 **23** (Audio is played.)  
-08:-42:-07 **24** MR. SOFER: Here they are at AZ Travel, and all  
-08:-42:-07 **25** three are together at this juncture. And again, Darren Griffin



08:17:37 **1** here is saying he now was able to download the bomb vest video;  
-08:-42:-07 **2** he's telling Mohammad Amawi.  
08:18:31 **3** (Audio is played.)  
08:18:34 **4** MR. SOFER: Critically important conversation.  
-08:-42:-07 **5** It's in Arabic between Marwan El-Hindi and Mohammad Amawi.  
-08:-42:-07 **6** They know that the bomb vest video is a piece of the puzzle.  
-08:-42:-07 **7** They need a further piece of that puzzle, that is the ratios and  
-08:-42:-07 **8** chemicals it takes, because the bomb vest video didn't give  
-08:-42:-07 **9** everything. Keep in mind the charge again says: In whole or  
-08:-42:-07 **10** in part. But then Marwan El-Hindi -- Mohammad Amawi says to  
08:18:59 **11** Marwan El-Hindi: Does he know it? And they're referring to  
-08:-42:-07 **12** Darren Griffin. Does he know it? Yeah, he knows it. Darren  
-08:-42:-07 **13** Griffin is the missing piece of this puzzle for them. And we  
-08:-42:-07 **14** know that the FBI was not going to let Darren Griffin teach  
-08:-42:-07 **15** these men how to build an IED, certainly not specifically. But  
08:19:16 **16** that's what they wanted to do. They have come to a common  
-08:-42:-07 **17** understanding of what they want, and they want to use Darren  
08:19:25 **18** Griffin to do it.  
08:19:27 **19** Let's continue on.  
08:19:56 **20** (Audio is played.)  
08:19:57 **21** MR. SOFER: And now on February 9, 2005, the  
08:20:01 **22** circle was complete in the sense that all three defendants have  
-08:-42:-07 **23** heard about each other. And what is said specifically about  
-08:-42:-07 **24** Wassim Mazloun? He's going to be in this cell also.  
08:20:15 **25** Let's continue on to February 14. This is two

-08:-42:-07 **1** days before they meet at Marwan El-Hindi's home.

08:20:26 **2** (Audio is played.)

08:21:20 **3** MR. SOFER: This is just like the shooting, ladies

08:21:24 **4** and gentlemen. It's not illegal to go to these websites, and

-08:-42:-07 **5** Mohammad Amawi knows that. And he's already developing what

-08:-42:-07 **6** would happen were someone to come to him. All I have to say is

08:21:36 **7** I'm going to see what's going on. But the purpose, again, that

-08:-42:-07 **8** these men are going to this website for, that is illegal because

08:21:46 **9** it is in furtherance of the conspiratorial agreement between

-08:-42:-07 **10** them to engage in violent jihad. And remember, this is, again,

-08:-42:-07 **11** two days before the February 16 meeting at Marwan El-Hindi's

-08:-42:-07 **12** home. Once again, Marwan El-Hindi, very concerned about being

08:22:04 **13** tracked again because he knows that what he's doing is not

08:22:08 **14** right.

08:22:11 **15** Let's continue.

08:22:30 **16** (Audio is played.)

08:23:02 **17** MR. SOFER: Shaykh is a term that's in your

08:23:04 **18** definitions, a term of respect for an older person like Marwan

08:23:09 **19** El-Hindi is to Mohammad Amawi.

08:23:11 **20** Continue.

08:23:33 **21** (Audio is played.)

08:24:27 **22** MR. SOFER: This is Mohammad Amawi's long-term

-08:-42:-07 **23** plan for going overseas, again, in the context of Jihad

-08:-42:-07 **24** training. And he says: I can take my time. This is a

08:24:37 **25** revelation that he had, that his first attempt to get into Iraq

-08:-42:-07 **1** too fast, untrained, not ready. Now he can do this the right  
08:24:46 **2** way and he can position himself in the right way. And Marwan  
08:24:50 **3** El-Hindi is, at the very least, trying to help Mohammad Amawi,  
-08:-42:-07 **4** trying to get overseas to position Mohammad Amawi overseas for  
08:24:59 **5** Jihad.  
08:25:01 **6** Let's continue now to the moment at which all of  
-08:-42:-07 **7** the defendants are together in one place. I'm going to talk  
-08:-42:-07 **8** about this a little later. But any doubt, any doubt that you  
-08:-42:-07 **9** had up until this time, and we've gone through a lot of evidence  
-08:-42:-07 **10** here today, should be eliminated here. The government submits  
-08:-42:-07 **11** to you that the case could have ended on February 16 of '05  
08:25:34 **12** inside the Marwan El-Hindi home. If you look at the elements  
-08:-42:-07 **13** of the crime and what happened, the case could have ended there,  
08:25:42 **14** and you could find all three defendants guilty beyond a  
-08:-42:-07 **15** reasonable doubt just from what happened at the end of February  
08:25:47 **16** 16, 2005. It didn't. They went on for quite some time.  
08:25:57 **17** I'm just going to show you -- again, I know you  
-08:-42:-07 **18** can't see down here. I'll start over here so you're in a  
-08:-42:-07 **19** better position. But these are all the things that happened  
08:26:10 **20** just up until August 15 of 2005. And you can see that a number  
-08:-42:-07 **21** of things also happened. And again, this is only what we've put  
-08:-42:-07 **22** in in terms of significant events. Not everything that  
08:26:23 **23** happened. But this is some of the significant events that took  
08:26:28 **24** place through the rest of that winter into the spring, into the  
-08:-42:-07 **25** summer of 2005. And so this shows you, ladies and gentlemen,

08:26:39 **1** even though the case could have ended on February 16, that shows  
-08:-42:-07 **2** you any doubt whether there was a conspiratorial agreement as  
08:26:49 **3** defined by the Judge, whether there was an overt act in  
08:26:52 **4** furtherance of that conspiracy, whether or not they agreed to go  
08:26:56 **5** do violent jihad and train is absolutely erased on February 16.  
-08:-42:-07 **6** It may be the most important date in the case. As I said,  
08:27:08 **7** though, before, and the Judge instructed you on the law on this,  
-08:-42:-07 **8** it's not necessary that all three of them ever actually even  
08:27:15 **9** knew of each other. So the fact that there's only one date  
08:27:18 **10** when they met is really not necessarily material to your  
08:27:22 **11** deliberations. It's a factor that you should consider, the  
-08:-42:-07 **12** fact that they met together, but they didn't have to do that as  
-08:-42:-07 **13** long as they agreed together to a common purpose. Again, I'll  
-08:-42:-07 **14** go through the elements later, but they wouldn't have actually  
-08:-42:-07 **15** had to have met each other.  
08:27:40 **16** Let's play the first clip from February 16, '05.  
08:28:02 **17** (Audio is played.)  
08:29:04 **18** MR. SOFER: Right out of the gate Darren Griffin  
-08:-42:-07 **19** is describing how they're getting videos from the Mujahidin.  
08:29:10 **20** Let's go to the next clip.  
08:29:13 **21** (Audio is played.)  
08:30:40 **22** MR. SOFER: Security company to cloak everything.  
08:30:46 **23** We'll train for jihad, God willing, but we'll cloak it with my  
-08:-42:-07 **24** security company. Very similar to shrouding it with my  
-08:-42:-07 **25** security company. Nothing ambiguous here, ladies and

-08:-42:-07 **1** gentlemen. Nothing ambiguous.

-08:-42:-07 **2** Let's continue.

08:31:12 **3** (Audio is played.)

08:31:24 **4** MR. SOFER: Go to the next clip.

08:31:27 **5** (Audio is played.)

08:31:46 **6** MR. SOFER: Do you want to know how comfortable

08:31:49 **7** Marwan El-Hindi is with all this? And I'm sure most of you have

08:31:53 **8** noticed this already. Look who's sitting on that couch.

08:31:53 **9** (Motions.)

08:32:23 **10** Let's continue.

08:32:24 **11** (Audio is played.)

08:32:24 **12** MR. SOFER: Again, nothing ambiguous. He's

08:32:27 **13** discussing the FBI and the CIA, talking about doing Jihad

-08:-42:-07 **14** training. Nobody gets up. Nobody says: Get me out of here.

-08:-42:-07 **15** Nobody even winces.

08:32:43 **16** Let's keep going.

08:32:46 **17** (Audio is played.)

08:32:59 **18** MR. SOFER: Shaykh Osama, Shaykh Osama Bin Laden

08:33:03 **19** of Al-Qaeda. The Mujahidin, you already know those are holy

08:33:08 **20** warriors that participate in violent Jihad. Hamas and

08:33:13 **21** Hezbollah are both defined in your definitions. They're both

-08:-42:-07 **22** foreign terrorist organizations. He's going to teach these men

08:33:21 **23** how to do things with a twist of what the U.S. does with their

08:33:25 **24** tactics.

08:33:28 **25** (Audio is played.)

08:35:01 **1** MR. SOFER: After all this, an unambiguous  
-08:-42:-07 **2** discussion of what they're training for and what they're going  
-08:-42:-07 **3** to do, all these terrorist organizations; does Wassim Mazloum  
-08:-42:-07 **4** get up and leave? No, he suggests his brother would be more  
-08:-42:-07 **5** than willing to participate in this.  
-08:-42:-07 **6** Let's continue.  
08:35:45 **7** (Audio is played.)  
08:36:43 **8** MR. SOFER: There may be some different areas that  
-08:-42:-07 **9** they want to go, but they want to do the same thing, and that's  
-08:-42:-07 **10** violent jihad.  
08:37:18 **11** (Audio is played.)  
08:37:28 **12** MR. SOFER: Perfect cover for what they are doing.  
08:37:31 **13** That's one of the things Darren Griffin offers, is an ability to  
-08:-42:-07 **14** do this in a way, again, to sort of train, but the purpose is  
08:37:40 **15** hidden. Mohammad Amawi knows that, and he actually repeats  
-08:-42:-07 **16** this, and he wants the certificates; he wants the ability to  
08:37:48 **17** actually be able to utilize this cover. He does this almost  
-08:-42:-07 **18** three months later. He does it on May 6 of 2005.  
08:37:57 **19** We're going to play that for a second. A little  
08:37:59 **20** out of order, but it shows you Mohammad Amawi latched onto this  
-08:-42:-07 **21** cover concept. And he gets it. He knows that the more he can  
08:38:06 **22** couch this, shroud it, cloak it under the VIP banner, the less  
08:38:13 **23** likely it is that anyone will figure out that what their purpose  
-08:-42:-07 **24** is is violent jihad.  
08:39:14 **25** (Audio is played.)

08:39:14 **1** MR. SOFER: Again you hear Mohammad Amawi  
08:39:16 **2** preparing for what's going to happen if someone asks him what  
-08:-42:-07 **3** they're really up to.  
08:39:23 **4** Let's continue on February 16 back at Marwan  
08:39:28 **5** El-Hindi's home.  
08:39:43 **6** (Audio is played.)  
08:40:43 **7** MR. SOFER: Mohammad Amawi has additional targets.  
08:40:49 **8** In addition to the United States forces, he'd like to get  
08:40:51 **9** foreign presidents. Again, to kill, maim people overseas  
08:40:55 **10** includes a foreign president.  
-08:-42:-07 **11** Let's continue.  
08:41:23 **12** (Audio is played.)  
08:41:27 **13** MR. SOFER: He says: And you know, we get a lot  
08:41:31 **14** of techniques that would help. Help what? It's help the  
-08:-42:-07 **15** jihad training. It's not the other way around. Wassim  
08:41:39 **16** Mazloun doesn't need jihad training to go to Lebanon to the  
08:41:43 **17** Lebanese Army. He needs the Lebanese military training to  
08:41:46 **18** assist him with jihad training; and you'll pick up a lot of  
08:41:50 **19** valuable techniques is what he says. So it's a shortcut,  
-08:-42:-07 **20** another way to fill the pieces of the puzzle. And he's going  
08:41:57 **21** to do that, at least he's thinking about doing it here as part  
-08:-42:-07 **22** of his potential military service back in Lebanon. We'll talk  
08:42:04 **23** about that some other time.  
-08:-42:-07 **24** Let's continue.  
08:42:50 **25** (Audio is played.)

08:43:37 **1** MR. SOFER: Get the grants for someone to grab  
08:43:41 **2** onto. You just heard about exactly what this training is  
-08:-42:-07 **3** about, exactly what the purpose of the training is. Now they  
-08:-42:-07 **4** have a conversation, and Marwan El-Hindi talks about the grant.  
-08:-42:-07 **5** He's talking about getting the grants for someone to grab onto.  
08:43:55 **6** They're talking about clearly, and before this, diverting some  
-08:-42:-07 **7** of that money into this training.  
08:44:01 **8** Continue.  
08:44:32 **9** (Audio is played.)  
-08:-42:-07 **10** MR. SOFER: Wassim Mazloun, eager as ever, said  
08:44:35 **11** he'll give money for the supplies they need.  
-08:-42:-07 **12** Let's continue.  
08:45:23 **13** (Audio is played.)  
-08:-42:-07 **14** MR. SOFER: Again, ladies and gentlemen, there's  
08:45:26 **15** an Arabic conversation between these three men about what the  
08:45:32 **16** Iraqi insurgency or terrorists need more. Do they need money;  
-08:-42:-07 **17** do they need manpower, or do they need weapons? Wassim Mazloun  
08:45:42 **18** said the money buys weapons. This is their intent, to provide  
08:45:46 **19** material support.  
08:45:48 **20** Let's continue.  
-08:-42:-07 **21** (Audio is played.)  
08:46:14 **22** MR. SOFER: They're having a discussion among  
08:46:16 **23** themselves about how best to support the people that are killing  
-08:-42:-07 **24** United States troops. And they're doing that in Toledo, Ohio.  
-08:-42:-07 **25** Let's play the next clip.



08:46:33 **1** (Audio is played.)

08:46:56 **2** MR. SOFER: Darren Griffin is saying we need more

-08:-42:-07 **3** people; either to find out who else is out there in the

-08:-42:-07 **4** community, or stalling for time at this point. But Wassim

08:47:08 **5** Mazloun and Mohammad Amawi are pushing him; saying, let's get

-08:-42:-07 **6** this thing started. Wassim Mazloun: Time, time, time is gold.

08:47:18 **7** Let's go to the next clip.

-08:-42:-07 **8** THE COURT: Actually, we're going to have to take a

-08:-42:-07 **9** break, even though the court reporter is not here yet. She

08:47:27 **10** should be here in just a couple minutes.

-08:-42:-07 **11** Ladies and gentlemen, we'll take about a ten-minute

-08:-42:-07 **12** break. Hope to start by about 20 of.

**13** (Recess taken. Court reporter substitution made.)

**14**

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**15****16**

## C E R T I F I C A T E

**17**

**18** I certify that the foregoing is a correct transcript from the

**19** record of proceedings in the above-entitled matter.

**20****21** /s Tracy L. Spore \_\_\_\_\_**22** Tracy L. Spore, RMR, CRR\_\_\_\_\_  
Date**23****24****25**